Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Administration; Public Meeting

AGENCY: Committee on Administration.

Date: Monday, March 31, 1986.

Time: 2:30 p.m.

Location: Department of Commerce, Room 5859, 14th Street and Constitution Avenue NW., Washington, DC

Agenda: Philip Harter's study and draft recommendations on federal agencies' use of alternative dispute resolution techniques.

Contact: Charles Pou, Jr., 202-254-7065.

Public Participation: Attendance at the committee meetings is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days in advance of the meeting. The committee chairman may permit members of the public to present appropriate oral statements at the meeting. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meetings will be available on request to the contact persons. The contact persons' mailing address is: Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC 20037. These meetings are subject to the Federal Advisory Committee Act (Pub. L. 92-463).

Richard K. Berg,
General Counsel.

[FR Doc. 86-6358 Filed 3-21-86; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 3032S]

Privacy Act; System of Records; Debt Collection Act of 1982

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that the United States Department of Agriculture (USDA) is revising its System of Records maintained by the Federal Crop Insurance Corporation (FCIC), USDA/FCIC-1 through 9. This action is necessary to recognize organizational changes regarding renaming the person from whom individuals may request information relative to this system of records; to correct the listing of FCIC office locations; to delete three obsolete systems of records; and to implement a new routine use to report information to collection or servicing contractors, as authorized by the Debt Collection Act of 1982. The intended effect of this notice is to list correct addresses, rename the individual responsible for providing information contained in the system, delete three obsolete systems, and add a routine use of the system to enable FCIC to provide information to effectively collect and service commercial debts.

EFFECTIVE DATE: On or before April 23, 1986. Comments must be received by the contact person listed below on or before April 23, 1986, to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Ralph F. Satterfield, Federal Crop Insurance Corporation, Room 4606, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 382-9714.

SUPPLEMENTARY INFORMATION: USDA hereby amends its system of records, USDA/FCIC-1 through 9, published in 43 FR 51294, November 2, 1978, by: correcting the addresses of FCIC offices; providing the correct person from whom information may sought throughout the system of records; deleting three systems no longer used by FCIC; amending the "Routine use of records maintained in its system, including categories of users and the purposes of such uses" to permit referral of information with respect to delinquent debts owed to FCIC to credit reporting, consumer reporting, and collection agencies; and adding a new section "Disclosures pursuant to 5 U.S.C. 552a(b)(12)," to permit referral of information to consumer reporting agencies.

By this action FCIC will (1) be able to report delinquent consumer debts and all commercial debts to credit reporting agencies; (2) clarify its authority to turn debtor files over to collection agencies for the collection of administrative commercial debts; and (3) amend the system of records to remove obsolete sections and correct office listings and contacts.

The three systems of records being deleted are: USDA/FCIC-2, Inspector's Report (FCIC-26); USDA/FCIC-4, Contact Report File, USDA/FCIC; and USDA/FCIC-9, Listing of Indemnities Paid, USDA/FCIC. The reasons for their deletion are stated below.

1.

USDA/FCIC-2

Inspector's Report (FCIC-26), USDA/FCIC

This system contains a listing of policyholders whose land productivity and/or farming practices were found to warrant a change in their actuarial classification, or individuals who have filed applications for insurance with the total anticipated liability which substantially exceeds the average for the area.

With increased coverage under the Actual Production History (APH) insurance program currently being offered and the increasing size of farms, this system is no longer applicable ahd has been discontinued.

2.

USDA/FCIC-4

Contact Report File, USDA/FCIC

This system contains Contact Report Forms (FCI-18) prepared by FCIC sales representatives during a sales presentation to a prospective policyholder.

FCIC is no longer involved in direct selling contact with prospective policyholders. This contact is now made by agents under an Agency Sales and Services Contract with a private commercial insurance company; therefore, the system is obsolete.

3.

USDA/FCIC–9

Listing of Indemnities Paid, USDA/FCIC

This systems of records contained the names of policyholders who were paid an indemnity, the policy number, and total amount of indemnities paid for the crop year. The listing of indemnities paid to all policyholders within a county was posted in the County Courthouse in accordance with the Federal Crop Insurance Act, as amended. This provision is no longer contained in the Act; therefore, the practice has been discontinued.

The systems of records maintained by FCIC are amended to correct the listing of offices of FCIC and the contact from whom information regarding the system may be obtained, and to provide for the referral of information with respect to delinquent debts owed to FCIC to credit reporting, consumer reporting, and collection agencies.

Further, USDA revises and republishes the full text of FCIC's systems of records to read as set forth below.

Signed at Washington, D.C., on March 18, 1986.

Richard E. Lyng,

Secretary.

USDA/FCIC–1

SYSTEM NAME:

Accounts Receivable, USDA/FCIC.

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131. A copy is also maintained in the applicable Field Operations Office for the State(s), and the Service Office for the county(ies) of the Federal Crop Insurance Corporation, as well as the ASCS County Offices of the United States Department of Agriculture. Addresses of these field offices may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are indebted to the Federal Crop Insurance Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

System consists of a master list of indebtedness by county and individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosures may be made from this system with respect to delinquent debts to a credit reporting agency consistent with the provisions of 31 U.S.C. 3701, 3702, 3711–3720A, and the Federal Claims Collection Standards, 4 CFR 102.2.

(4) Referral to a collection agency, when FCIC determines such referral is appropriate for collecting the debtor's account as provided for in U.S. Government contracts with collection agencies.

(5) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(6) Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or 31 U.S.C. 3701(a)(3).

(7) Referral of commercial credit information, which is filed in the system, to a commercial credit reporting agency for it to make the information publicly available. 7 CFR 3.35, 50 FR 7725 (February 26, 1985).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on computer printouts, magnetic tape, microfiche, and also in a card index in county ASCS offices.

RETRIEVABILITY:

Records are indexed by State, county, and name of individual.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-duty hours.

RETENTION AND DISPOSAL:

Reocrds are maintained until the indebtedness is paid. Paper records for disposal are delivered to custodial services for disposal as waste paper. Magnetic tape records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the service office. Addresses of locations where records are maintained may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250. The request for information should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number, if known.

RECORD ACCESS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the Director, Field Operations Division, FCIC, Washington, D.C. 20250.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from the individual debtor.

USDA/FCIC–3

SYSTEM NAME:

Crop Insurance Actuarial Listing, USDA/FCIC.

SYSTEM LOCATION:

Field Actuarial Offices: Davis, California; Valdosta, Georgia; Springfield, Illinois; Oklahoma City, Oklahoma; Billings, Montana; Jackson, Mississippi; Raleigh, North Carolina; St. Paul, Minnesota; and Topeka, Kansas.

Field Operations Offices: Davis, California; Harrisburg, Pennsylvania; Columbia, Missouri; Springfield, Illinois; Indianapolis, Indiana; Des Moines, Iowa; Manhattan, Kansas; St. Paul, Minnesota; Jackson, Mississippi; Billings, Montana; Lincoln, Nebraska;

Raleigh, North Carolina; Bismarck, North Dakota; Columbia, South Carolina; Huron, South Dakota; Nashville, Tennessee; College Station, Texas; and Spokane, Washington.

Also, service offices of the Federal Crop Insurance Corporation. Addresses of each such field office may be obtained from the telephone directories under United States Government, Department of Agriculture, Federal Crop Insurance Corporation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who produce specific crop(s) in the county.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the name and address of the owner or operator of a farm, ASCS farm serial number, allotment or planted acres of the crop, and the actuarial classification for the crop(s).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Information in the system of records is on file and available to the public for inspection in the service office for the county.

(4) Dislosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DEPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by State, county, crop, and name of owner/operator of ASCS farm serial number.

SAFEGUARDS:

Records are available for public inspection in the service office for the county. These offices are locked during non-working hours.

RETENTION AND DISPOSAL:

Indefinite.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the service office. The addresses of the individual service office may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250. A request for information pertaining to an individual should contain (1) Individual's name and address, (2) State(s) and county(ies) where farm(s) is located, (3) whether owner or operator, and (4) ASCS farm serial number.

RECORD ACCESS PROCEDURE:

An individual may obtain information as to procedures for gaining access to a record in this system which pertains to such individual by submitting a written request to the Director, Field Operations Division, FCIC, Washington, DC 20250.

CONTESTING RECORD PROCEDURES:

Same as access above.

RECORD SOURCE CATEGORIES:

Information in this system comes from county ASCS offices, data obtained from producers and from Corporation records of producers's insurance experience.

USDA/FCIC-5

SYSTEM NAME:

Rejected applications, USDA/FCIC.

SYSTEM LOCATION:

Field Operations Offices: Davis, California; Harrisburg, Pennsylvania; Columbia, Missouri; Springfield, Illinois; Indianapolis, Indiana; Des Moines, Iowa; Manhattan, Kansas; St. Paul, Minnesota; Jackson, Mississippi; Billings, Montana; Lincoln, Nebraska; Raleigh, North Carolina; Bismarck, North Dakota; Columbia, South Carolina; Huron, South Dakota; Nashville, Tennessee; College Station Texas; and, Spokane, Washington. Also individual service offices of the Federal Crop Insurance Corporation. The address of each Field Operations Office may be obtained from the local telephone directory under the "United States Government, Department of Agriculture, Federal Crop Insurance Corporation."

CATEGORIES OF INDIVIDUALS COVERD BY THE SYSTEM:

Producers whose applications for insurance have been rejected.

CATEGORIES OF RECORDS IN THE SYSTEM:

System consists of the rejected application, related materials and correspondence received between the applicant and Federal Crop Insurance Corporation offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTANED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders in the service and field operations offices involved.

RETRIEVABILITY:

Records are indexed by individual names and crop years.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-working hours.

RETENTION AND DISPOSAL:

Records are normally retained for 3 years following the crop year in which the file was prepared. Records for disposal are delivered to custodial services as waste paper.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records, or information as to whether the system contains records pertaining to such individual from the service office for the county. The addresses of the individual service office may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250. A request for information pertaining to an individual should contain (1) Individual's name and address, (2) State(s) any county(ies) where farm(s) is located, and (3) crop year in which application for insurance was rejected.

RECORD ACCESS PROCEDURE:

Any individual may obtain information as to the procedures for gaining access to a record in this system which pertains to such individual by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from prosepctive insureds and employees of the Federal Crop Insurance Corporation.

USDA/FCIC-6

SYSTEM NAME:

Insurance Contract Analysis, USDA/FCIC.

SYSTEM LOCATION:

Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri, 64131. Field Actuarial Offices in Valdosta, Georgia; Springfield, Illinois; Oklahoma City, Oklahoma; Billings, Montana; Jackson, Mississippi; Raleigh, North Carolina; St. Paul, Minnesota; Topeka, Kansas; Harrisburg, Pennsylvania; and, Davis, California. Field Operations offices in 18 different locations, and individual service offices of the Federal Crop Insurance Corporation. Addresses of each field office may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have, or have had in the past, insurance with the Federal Crop Insurance Corporation.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains the name, crops insured by crop years, the amount of premium paid by the insured, the amount of indemnity paid to the insured, the cause of loss, loss ration of each crop insured under the policy, the number of years of no loss, the wheat bushel balance for premium discount purposes, the total number of years a premium discount was earned, and the number of years an indemnity was paid.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation of potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery. (3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in bound books and on magnetic tape.

RETRIEVABILITY:

Records are indexed by State, county and policy number.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained for 3 years after a policy is cancelled, except indefinite retention applies where the loss ratio for an individual crop was 1.20 or greater. Paper records for disposal are delivered to custodial services for disposal as waste paper. Magnetic tape records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the service office for the county. Addresses of locations where records are maintained may be obtained from the Director, Field Operations Division, FCIC, Washington, D.C. 20250. The request for information should contain (1) Individual's name and address (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number, if known.

RECORD ACCESS PROCEDURE:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system is a summary of data obtained from insured producers.

USDA/FCIC-7

SYSTEM NAME:

Insurance Contract Files, USDA/FCIC.

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131 and/or various service offices throughout the United States. To obtain addreses of the service offices, contact: Director, Field Operations Division, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual farmers who participate in the Federal Crop Insurance program are included in this system of records.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a complete file containing all basic insurance documents; i.e., the application for insurance, the annual acreage report, inspection reports, claim forms, miscellaneous correspondence, etc. Selected data obtained from the basic insurance documents is also maintained on magnetic tape.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charges with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in individual file folders and on magnetic tape.

RETRIEVABILITY:

Records are indexed by State, county, and policy number.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained for 3 years following cancellation of the policy, except where there is an outstanding debt the file is retained 5 years following the year of the debt. Paper records for disposal are delivered to custodial services for disposal as waste paper. Magnetic tape records are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, DC 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the Director, Field Operations Division, FCIC, Washington, DC 20250. Addresses of locations where records are maintained may also be obtained from the above office.

A request for information should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number(s), if known.

RECORD ACCESS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from individual insured, Federal Crop Insurance Corporation and investigative personnel.

USDA/FCIC-8

SYSTEM NAME:

List of Ineligible Producers, USDA/FCIC.

SYSTEM LOCATION:

Kansas City Operations Office, Federal Crop Insurance Corporation, 9435 Holmes, Kansas City, Missouri 64131; Field Actuarial Offices, offices of Field Operations Office Directors; and, each service office of the Federal Crop Insurance Corporation. Addresses of each such field office may be obtained from the Director, Field Operations Division, FCIC, Washington, DC 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been determined as not eligible for Federal Crop Insurance on a specific crop(s) due to excessive losses, questionable farming practices, or who have contracts voided due to suspected or apparent fraud.

CATEGORIES OF RECORDS IN THE SYSTEM:

Record contains only lists of names of producers and prior policy numbers, if any, for a specific state and county.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1501–1520; 7 CFR 2.73.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation or order issued pursuant thereto.

(2) Referral to a court, magistrate or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any record within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders by county, and on magnetic tape.

RETRIEVABILITY:

Records are indexed by State, county, and name of individual.

SAFEGUARDS:

Records are accessible only to authorized personnel and are maintained in offices which are locked during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Federal Crop Insurance Corporation, USDA, Washington, D.C. 20250.

NOTIFICATION PROCEDURE:

An individual may request information regarding this system of records or information as to whether the system contains records pertaining to such individual from the Director, Field Operations Division, FCIC, Washington, D.C. 20250. Addresses of locations where records are maintained may also be obtained from the above office.

A request for information pertaining to an individual should contain (1) Individual's name and address, (2) State(s) and county(ies) where such individual farms, and (3) the individual policy number(s), if known.

RECORD ACCESSS PROCEDURES:

An individual may obtain information as to the procedures for gaining access to a record in the system which pertains to such individual by submitting a written request to the appropriate official referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as access procedure.

RECORD SOURCE CATEGORIES:

Information in this system comes from reports of inspections made by FCIC personnel of producer's operations and from records of previous insuring experience.

[FR Doc. 86-6387 Filed 3-21-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Stabilization and Conservation Service

Feed Grain Donation for the Crow Creek Reservation Indian Tribe in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Crow Creek Sioux Indian Tribe of the Crow Creek Indian Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Crow Creek Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or inferfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1986, or such other date as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, DC, on March 18, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-6340-Filed 3-21-86; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Appeals Handbook—FSH 1509.12; Availability

AGENCY: Forest Service; USDA.

ACTION: Notice of Availability.

SUMMARY: The Forest Service announces the availability of Forest Service Handbook 1509.12, the Appeals Handbook. Part of the Agency's directive system, the handbook contains procedural guidelines for use by National Forest System line officers, resource staff, and appeals coordinators to process administrative appeals of decisions by forest officers.

ADDRESS: Single copies of the Appeals Handbook are available to the public upon request to: USDA-Forest Service, P.O. Box 2417, Washington, DC 20013, Attn: InS-Program Support Group, Rm. 0341 South.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Hauser, Program Analyst, NFS, (202) 382-9346.

Dated: March 14, 1986.

R. Max Peterson,

Chief.

[FR Doc. 86-6389 Filed 3-21-86; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Hearing on the Protection of Handicapped Newborns

Notice if hereby given pursuant to the provisions of the Civil Rights Act of 1983, Pub. L. 98-183, 97 Stat. 1304, that a public hearing of the U.S. Commission on Civil Rights will be held on April 29, 1986, at 9:00 a.m., at the U.S. Commission on Civil Rights, 1121 Vermont Avenue, NW., Washington, DC.

The purpose of the hearing is to hear testimony about civil rights issues affecting handicapped newborns.

The Commission is an independent, bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal government with respect to the discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap, or national origin, or in the administration of justice.

Dated at Washington, DC., March 19, 1986.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 86-6381 Filed 3-21-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

[C-122-507]

Final Affirmative Countervailing Duty Determination; Certain Fresh Atlantic Groundfish From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish as described in the "Scope of Investigation" section of this notice. The estimated net subsidy is 5.82 percent *ad valorem.*

We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of certain fresh Atlantic groundfish from Canada that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit or bond on

entries of these products in the amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-0161.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish (groundfish). For purposes of this investigation, the following programs are found to confer subsidies:

A. Federal Programs

1. Fishing Vessel Assistance Program;
2. Department of Fisheries and Oceans (DFO) Promotions Branch;
3. Assistance for the Construction of Ice-making and Fish Chilling Facilities;
4. Certain Types of Investment Tax Credits;
5. Program for Export Market Development;
6. Regional Development Incentive Program;
7. Industrial and Regional Development Program;
8. Fisheries Improvement Loan Program;
9. DFO Grants to Fishermen and Fish Processors from SRCPP Funds;
10. Preferential User Fees to Fishermen under the Small Craft Harbour Program; and
11. Government Equity Infusions into National Sea Products Limited and Fishery Products International Limited.

B. Joint Federal-Provincial Programs

1. Agricultural and Rural Development Agreements;
2. Prince Edward Island (P.E.I.) Comprehensive Development Plan;
3. General Development Agreements;
4. Transitional Programs;
5. Economic and Regional Development Agreements; and
6. Interest-Free Loans to National Sea Products Limited.

C. Provincial Programs

1. New Brunswick: Loans from the Fisheries Development Board;
2. New Brunswick: Fish Unloading Systems and Ice-making Programs;
3. New Brunswick: Insurance Premium Prepayment Program;
4. New Brunswick: Interest Rate Rebates;
5. New Brunswick: Technical Services;
6. Newfoundland: Grants for Purchasing and Constructing Boats;
7. Newfoundland: Grants for Rebuilding and Repair of Fishing and Coastal Vessels;
8. Newfoundland: Grants to Cover Operating Expenses;
9. Newfoundland: Loans from the Fisheries Loan Board;
10. Newfoundland: Loan Guarantees from the Fisheries Loan Board;
11. Newfoundland: Operation of Fisheries Facilities and Services;
12. Newfoundland: Construction and Repair of Fisheries Facilities;
13. Newfoundland: Enhancement of Fishing Operations;
14. Newfoundland: Marketing Assistance;
15. Nova Scotia: Fishing Vessel Construction Program;
16. Nova Scotia: Loans from the Fisheries Loan Board;
17. Nova Scotia: Industrial Development Division Grants;
18. Nova Scotia: Market Development Assistance;
19. P.E.I.: Fishing Vessel Subsidy Program;
20. P.E.I.: Near and Offshore Vessel; Assistance Program;
21. P.E.I.: Engine Conversion Program;
22. P.E.I.: Commercial Fishermen's Investment Incentive Program;
23. P.E.I.: Assistance for the Construction of Ice-making and Fish Chilling Facilities;
24. P.E.I.: Fish Box Pool Program;
25. P.E.I.: Technical Upgrading Program;
26. P.E.I.: Fresh Fish Marketing Program;
27. Fishing Industry Technology Program;
28. P.E.I.: Technology Improvements Program;
29. P.E.I.: Onboard Fishing Handling Systems Program;
30. Quebec: Vessel Construction Assistance Program;
31. Quebec: Gear Subsidy Program:
32. Quebec: Insurance Premium Subsidy Program;
33. Quebec: Large Vessel Construction Program;
34. Quebec: Loans from the Ministry of Agriculture, Fisheries and Food;
35. Quebec: Grants for Engine Purchases;
36. Quebec: Grants for Fish Transport and Seafood Processing Tanks;
37. Quebec: Grants to Processing Enterprises for Capital Equipment; and
38. Quebec: Ice-making and Fish Chilling Assistance.

We determine the estimated net subsidy to be 5.82 percent *ad valorem*.

Case History

On August 5, 1985, we received a petition in proper form from the North Atlantic Fisheries Task Force on behalf of the United States groundfish industry which harvest and produces for sale Atlantic groundfish in fresh form. The North Atlantic Fisheries Task Force is an unincorporated association representing fisherman, fishermen's cooperatives, and processors located in the northeastern United States. A majority of the members of the Task Force are producers, wholesalers, or trade or business associations whose members are producers or wholesalers of groundfish.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 26, 1985, we initiated this investigation (50 FR 35281). We stated that we expected to issue a preliminary determination by October 29, 1985.

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. On September 19, 1985, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Canada of certain fresh whole Atlantic groundfish. At the same time, it determined that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of certain fresh Atlantic groundfish fillets from Canada (50 FR 38904).

We presented a questionnaire concerning the allegations contained in the petition to the government of Canada in Washington, DC, on September 9, 1985. On November 8, 1985, we received a response to our questionnaire containing information submitted by the government of Canada, the governments of the provinces of New Brunswick, Newfoundland and Labrador, Nova Scotia, Prince Edward Island, and Quebec, and three Canadian firms (Fishery Products International Limited, National Sea Products Limited, and United Maritime Fisherman (Co-op). We received supplementary information throughout November and December 1985.

On October 7, 1985, based upon a request made by the petitioner and in accordance with section 703(c)(1)(A) of the Act, we postponed the deadline date for the preliminary determination to no later than January 2, 1986 (50 Fed. Reg. 41921). On the basis of information contained in the response, we made a preliminary determination on January 2, 1986 (51 Fed. Reg. 1010).

From January 13 to February 10, 1986, we verified the information submitted in response to our questionnaire. At the request of petitioner, we held a hearing on February 18, 1986. We received pre-hearing briefs on February 12, 1986, and post-hearing briefs on February 26, 1986. Written comments on the verification reports were submitted by petitioner on March 7, 1986.

In accordance with § 355.38 of the Commerce Regulations, several Canadian firms claiming not to have benefitted from subsidies applied for exclusion from any possible countervailing duty order. On October 8, 1985, we informed representatives of the Canadian government of the applications, and requested questionnaire responses from each of the firms applying for exclusion. We also informed the Canadian officials that, for the exclusion requests to be considered, the Department would require that both the federal and the appropriate provincial governments submit formal certifications attesting to the non-receipt of benefits by the firms in question. Both the questionnaire responses and government certifications were due no later than November 8, 1985. We received responses to the questionnaire during the period November 8–15, 1985. However, in a letter dated November 6, 1985, the Canadian government informed the Department that it was not feasible for the federal and certain provincial governments to comply with the certification requirement. On November 27, 1985, we notified the Canadian government that, due to the volume of requests for exclusion and the difficulty of verifying the responses of firms requesting exclusion, the current policy of the Import Administration is to accept and verify exclusion requests in countervailing duty investigations only if the respondent government provides certification that the firm or firms are not receiving subsidies. Given that we had not previously denied an exclusion request on the basis of a government's refusal or inability to provide certification, we extended the certification deadline until December 6, 1985, to allow the Canadian federal and the appropriate provincial governments to comply with this requirement. However, we stated that, if we did not receive the certifications by that date, we would not consider the exclusion requests. On December 4, 1985, the Canadian government notified the Department that it would be unable to provide the certifications. Therefore, we denied the requests for exclusion.

Standing Issue

Section 702(b)(1) of the Act requires that a petition be filed "on behalf of" a U.S. industry. As we have previously stated, neither the Act nor the Commerce Regulations require a petitioner to establish affirmatively that it has the support of a majority of a particular industry. The Department relies on petitioner's representation that it has, in fact, filed on behalf of the domestic industry, until it is affirmatively shown that this is not the case.

In the course of this investigation, we heard from a number of members of the domestic industry producing fresh groundfish fillets who unconditionally oppose the petition. These firms primarily opposed the case on whole, fresh groundfish, which they do not, by and large, produce. This opposition did not reach such a level as would lead us to believe that a majority of either industry opposes the petition on the like product each produces. We also received a submission from the Task Force for the Survival of American Fishermen, Processing Plants and Jobs, a group claiming to account for a major proportion of groundfish fillet production in the United States, and a significant amount of domestic landings of whole groundfish. The group has stated its opposition to the investigation of filleted *and* whole groundfish, but it is opposed to terminating the investigation just on groundfish fillets. The group has provided no information on the volume of domestic landings for which it accounts, nor has it provided sufficient evidence that it accounts for a major proportion of the domestic whole groundfish industry. Accordingly, we believe that the opponents of the petition have not demonstrated affirmatively that the petition was not filed on behalf of the domestic industry. This conclusion is not based upon any exclusion from consideration, as part of the domestic industries, of those firms which may also import from Canada the like product which they allegedly produce.

Scope of Investigation

The products covered by this investigation are certain fresh Atlantic groundfish, which cover fresh whole and fresh fillets of Atlantic groundfish, including cod, haddock, pollock, hake, and flatfish (including fllunder and sole). These species are generally referred to collectively as "groundfish" because they live on or near the seabed. The term "fresh" includes fish that are chilled, but excludes fish that have been frozen. Whole fish include fish which are whole, or processed by removal of heads, viscera, fins, or any combination thereof, but not otherwise processed. Fillets (including fish steaks) include fish, other than frozen blocks, which are otherwise processed (whether or not heads, viscera, fins, scales, or any combination thereof have been removed). These products are currently provided for in items 110.1585, 110.1593, 110.3560, 110.5000, 110.5545, 110,5565, and 110,7033 of the *Tariff Schedules of the United States Annotated (TSUSA).*

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of *Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing duty Order,* which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

For purposes of this final determination, the period for which we are measuring subsidization ("the review period") is the government of Canada's 1985 fiscal eyar (April 1, 1984—March 31, 1985).

With respect to the calculations of benefits from grant programs, we allocated grants for fishing vessels over 18 years (the average useful life of vessels, barges, tugs, and similar water transportation equipment), for private wharves and slipways over 16 years (the average useful life of ship and boat building dry docks and land improvements), for fish boxes over four years (the average useful life of specialized materials handling devices), and for all other assets over 12 years (the average useful life of assets used in the manufacture of food and other sundry products). Because we used aggregate data for subsidy programs in this case, we used as the discount rate the long-term corporate bond rate in Canada, as published by the Bank of Canada.

With respect to the benchmark interest rates used to calculate benfits from loan programs, for long-term fixed-rate loans, we used the long-term corporate bond rate in Canada. For long-term variable-rate loans, because we had no variable-rate long-term loans to use as a benchmark, we relied on a short-term interest rate which in this case is the 90-day prime corporate paper rate as reported by the Bank of Canada. And for short-term loans, we also used the 90-day prime corporate paper rate. For those programs in which respondents were unable to segregate benefits to the producers of the subject merchandise from benefits to the producers of other fresh fish and shellfish, we allocated benefits to all producers of fish and shellfish over the f.o.b. value of production in Atlantic Canada of fish and shellfish. All dollar amounts referred to represent Canadian dollars.

Based on our analysis of the petition, the responses to our questionnaire, our verification, and comments filed by petitioner and respondents, we determine the following:

I. Programs Determined to Confer Subsidies

We determine that subsidies are being provided to producers or exporters in Canada of certain fresh Atlantic groundfish under the following programs:

A. Federal Programs

1. Fishing Vessels Assistance Program (FVAP)

Under the administration of the Economic Programs Branch of the DFO, the government of Canada operates the FVAP. Although the program was terminated on December 20, 1985, its operation remains in effect through March 31, 1986. This program provided grants to any provincial agency, Canadian corporation or resident citizen to construct, modify, or convert and re-equip fishing vessels. All construction, modification, or conversion was to be done in Canada.

The regulations for this program authorized funding of up to 60 percent of the cost of constructing a vessel, to a maximum of $750,000. The funding limit for modification or conversion of a vessel was $400,000. However, during our review period, financial assistance was limited to 25 percent of the cost of construction of a vessel, not to exceed $125,000 for steel hull vessels or $100,000 for other vessels. Grants for modifications or conversions could not exceed 25 percent of the vessel's replacement cost.

Because grants under this program were limited to vessels used by commercial fishermen, we determine that they were limited to a specific enterprise or industry, or group of enterprises or industries, within the meaning of section 771(5)(B) of the Act, and are countervailable.

To calculate the benefit from this program, we allocated the grants received in Atlantic Canada in fiscal years 1968 through 1985 over 18 years. Applying our grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.715 percent *ad valorem*.

2. DFO Promotions Branch

The marketing of the DFO are the responsibility of the Marketing Directorate. The Directorate has two branches: the Market Intelligence and Industry Service Branch, and the Promotions Branch. The Market Intelligence and Industry Services Branch is discussed in section III. A.2 of this notice. The function of the Promotions Branch is to promote fish products generically. Specifically, the Promotions Branch has run advertising campaigns, published and distributed promotional materials, developed and tested new recipes, organized an educational program for retailers, and funded promotion displays at fairs and exhibitions, including "Boston Seafood '85," and the "Dallas Solo Fish Show." The majority of the Promotions Branch's activities are directed at the Canadian domestic market. However, funding of promotional displays at the Boston Fair and Dallas Show provided a benefit to exporters of fish to the United States during the review period. Because promotional activities at these shows benefited only exports to the United States, we determine that the expenses incurred for participation are countervailable export subsidies.

To calculate the benefit from this program, we divided the amount expended on promotional displays by the f.o.b. value of exports of fish and shellfish from Canada to the United States during the review period. This resulted in an estimated net subsidy of 0.001 percent *ad valorem*.

3. Assistance for the Construction of Ice-making and Fish Chilling Facilities

Under the administration of the Inspection Branch of the DFO, this program provided grants for the construction and equipping of commercial ice-making facilities used by the fishing industry in amounts up to 50 percent of a project's cost, with a ceiling of $25,000. In 1977, the ceiling was raised to $50,000. The program began in 1973, and terminated in 1980.

Because grants provided under this program were limited to a specific enterprise or industry, or group of enterprises or industries, we determine the program to be countervailable. We recognize that this program terminated in 1980. However, according to our grant methodology, grants bestowed between 1973 and 1980 confer benefits during the review period. To calculate the benefit from this program, we allocated the grants received in Atlantic Canada in fiscal years 1974 through 1980 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.059 percent *ad valorem*.

4. Certain Types of Investment Tax Credits (ITC)

There are four categories of ITCs in Canada: two are directed at encouraging capital investment in certain regions of the country; one is designed to stimulate scientific research; and the fourth is aimed at promoting the purchase of certain types of transportation equipment. The first category of ITC is for investment in "qualified property," such as new plant and equipment used for manufacturing or processing. The basic ITC for investment in qualified property is seven percent. An additional three or 13 percent is available for qualified property used in certain regions.

The second category of ITC is for investment in "certified property." The distinguishing factor between "certified property" and "qualified property" is that the former must be located in prescribed regions characterized by high levels of unemployment and low per capita income. The ITC rate for certified property is 50 percent.

The third category of ITC is for scientific research. Eligible expenditures under this category include the cost of capital equipment used for scientific research and expenses attributable to scientific research. A basic 20 percent ITC rate is available for qualifying scientific research expenditures. For small Canadian-controlled private corporations, the rate is 35 percent. For all other corporations, the rate is 30 percent, if the expenditure is made in certain regions. The fourth category of ITC is for investment in "qualified transportation equipment."

We verified that the basic seven percent rate for "qualified property" is not limited to a specific industry or region. We, therefore, determine that it is not countervailable. However, because the additional rates of three and 13 percent for qualified property can only be claimed on assets used in certain regions, we determine that those additional benefits are countervailable. The 50 percent ITC rate for "certified property" can also only be claimed on assets used in specific regions. Thus, we determine that the additional benefit above the basic rate of seven percent is countervailable.

We verified that the fishing industry did not benefit from scientific research ITCs. Therefore, we determine that these ITCs were not used. We verified that the ITC for transportation equipment is not available for investment in fishing vessels. Consequently, we determine that this type of ITC was not used.

Our standard methodology to calculate the benefit from a tax program would be to consider the benefit to be the amount of tax credits claimed on the tax return filed during the review period. However, information from tax returns filed in 1984 is not available. Thus, we are using, as best information available, those tax credits claimed in 1983. Dividing the amount of countervailable ITCs attributable to Atlantic Canada's fishing industry by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.162 percent *ad valorem*.

815. Program for Export Market development (PEMD)

PEND is administered by the Department of External Affairs and is available to all businesses in the manufacturing or service sectors which export. PEMD facilitates the development of export markets for Canadian products by providing assistance for project bidding, market identification, export consortia, sustained export market development, participation in trade fairs abroad, and bringing in foreign buyers. PEMD assistance is in the form of interest-free loans with repayment terms dependent upon the success of the export promotion activity. If sales result from the export promotion, the funds must be repaid at a rate of two percent of sales generated for a period of three years up to the amount of assistance provided. We verified the amount of PEMD loans provided to the Atlantic fishing industry. However, respondents were unable to segregate the loans provided solely for the export promotion of groundfish.

Since PEMD loans are provided for export activities, we determine that assistance provided under the program confers benefits which constitute export subsidies. Because the repayment terms on PEMD loans are indefinite, we are considering all the loans attributable to the Atlantic Canada fishing industry outstanding in the beginning of the review period as short-term loans with zero interest, rolled over each year. To calculate the benefit, we multiplied the amount outstanding at the beginning of the review period by our short-term interest benchmark. We then divided the benefit by the f.o.b. value of exports to the United States of fish and shellfish during the review period. We calculated an estimated net subsidy of 0.001 percent *ad valorem*.

6. Regional Development Incentive Program (RDIP)

The RDIP, which was the predecessor of the Industrial and Regional Development Program (see section I.A.7. of this notice), was administered by the Department of Regional Economic Expansion (DREE) for the purpose of creating stable employment opportunities in areas of Canada where employment and economic opportunities were chronically low. The program provided development incentives (usually grants) to manufacturers whose capital investment projects for establishing new facilities or expanding or modernizing existing facilities would create jobs and economic opportunities in areas designated as economically disadvantaged.

Because paid benefits were limited to companies located within specific regions in Canada, we determine that grants provided through the RDIP program of DREE are countervailable.

Although the program was terminated in 1983, RDIP grants were still provided to the fishing industry through 1985. To calculate the benefits from RDIP, we allocated the grants received in Atlantic Canada in fiscal years 1974 through 1985 over 12 years. Applying the grant methodoy, and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.447 percent *ad valorem*.

7. Industrial and Regional Development Program (IRDP)

Under the administration of the Department of Regional and Industrial Expansion (DRIE), IRDP was established in 1983 as the successor to RDIP. Its purpose is to increase industrial development and improve the overall economic climate in Canada. To accomplish this goal, grants are provided for four purposes: (1) to encourage the development of new products and new processes and to increase industrial productivity and industrial competitiveness; (2) to assist in the establishment of new production facilities in less developed areas; (3) to increase industrial productivity through the improvement, modernization and expansion of existing manufacturing and processing operations; and (4) for marketing purposes.

Each of Canada's 260 census districts is classified into one of four tiers on the basis of the economic development of the region. The most economically disadvantaged five percent of the population is included in Tier IV; the districts in which the next 15 percent of the population (in terms of economic disparity) resides are classified as Tier III; the districts in which the next 30 percent of the population resides are classified as Tier II; and the districts in which the remaining 50 percent of the population resides are classified as Tier I. The Yukon and Northwest Territories are always classified in Tier III.

Those districts classified as Tier IV are authorized to receive the highest share of assistance under IRDP (as a percentage of assistance per approved project); those in Tier I, the lowest. Also, grants for the establishment of new facilities, and for modernization and expansion are no longer provided to companies located in census districts classified as Tier I.

Despite the fact that the criteria for assignment to a tier may be neutral, the program nevertheless authorizes benefits to vary from tier to tier, and thus, from region to region. Therefore, we determine that this grant program provides regional subsidies and is countervailable.

IRDP grants were received by fresh fish producers only in the 1985 fiscal year. To determine the level of benefit under this program, we compared the level of assistance provided to companies involved in fresh fish production in Atlantic Canada to the average level of assistance provided to companies in Tier I. We took the difference and allocated it over 12 years. Applying the grant methodology and dividing the f.o.b. value of production in Atlantic Canada of the subject merchandise during the review period, we calculated an estimated net subsidy of 0.001 percent *ad valorem*.

8. Fisheries Improvement Loan Progam (FILP)

The FILP, established in 1955 under the Fisheries Improvement Loans Act, is currently administered by the Economic Programs Branch of the DFO in accordance with the Fisheries Improvement Loans Regulations. Under the program, the Minister of Fisheries and Oceans guarantees loans made by chartered banks and other designated commercial lenders to commercial fishermen for fisheries improvement projects. These projects include the purchase, construction, and repair of alteration of fishing vessels, equipment, water supply systems, or other structures related to a primary fishing enterpirse. The maximum amount of guaranteed loans that a borrower may have outstanding is $150,000. The interest rates charged on loans guaranteed by the government are variable and are equal to the prime lending rate of the lending bank plus one percent. The maximum term of any loan is set at 15 years. There are no fees charged for the guarantees.

Respondents contend that because loans under this program are provided on terms similar to those found under the Farm Improvement Loans Act, the loans to the fishing industry should not be considered to be limited to a specific enterprise or industry, or group of enterprises or industries. We disagree.

There is no evidence that loans under the farm program or the fishing program are linked in any way to an overall government lending policy to provide loans and loan guarantees on comparable terms to the various qualifying groups. Thus, we must look at each of these programs separately.

Loans under the farm loan program were found to be not countervailable in the *Final Affirmative Countervailing Duty Determination: Live Swine and Fresh, Chilled and Frozen Pork Products from Canada* (50 Fed. Reg. 25097) because they were available on similar terms to all industries in the agricultural sector. In contrast, loans under the FILP are limited to one specific industry, the fishing industry.

In addition to determining whether the FILP is limited to a specific enterprise or industry, or group of enterprises or industries, we must also determine whether the loans and loan guarantees given under the program are on terms inconsistent with commercial considerations.

With respect to the loan guarantees, there are no private commercial sources for loan guarantees in Canada. There are, however, fees charged for loan guarantees under other federal and provincial programs. Under the Federal Enterprise Development Program, private lenders pay the government a fee of one percent per annum on the outstanding balance of loans guaranteed under that program. Under the Newfoundland Deficiency Guarantee Program, the government of Newfoundland's Department of Finance also charges a one percent fee per annum. Therefore, we are using, as best information available, the guarantee fee charged under those programs as our benchmark to determine whether loan guarantees provided under the FILP are on terms inconsistent with commercial considerations. As stated earlier, there are no fees charged on loan guarantees under the FILP. Therefore, we determine that loan guarantees provided under this program are countervailable because they are limited to the fishing industry and are made on terms inconsistent with commercial considerations.

To calculate the benefit under this program, we took the difference between our benchmark guarantee fee (one percent) and the charge for guarantee fees under this program (zero). We applied the difference to the amount of loans outstanding in Atlantic Canada during the review period. Dividing the result by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.043 percent *ad valorem* for loan guarantees provided under this program.

With respect to loans under this program, in order for commercial banks to have their loans guaranteed by the federal government, they must charge an interest rate of prime plus one percent. To determine whether the interest rate mandated by the government provides an additional benefit to commercial fishermen, we compared the interest rate provided to fishermen under the FILP to the commercial interest rate which commercial fishermen would have had to pay absent this program. Comparing the appropriate benchmark described in the Analysis of Programs section of this notice to the interest rate charged under the program, we determine that the FILP loans are not made on terms inconsistent with commercial considerations. We therefore determine that loans made under this program are not countervailable.

9. DFO Grants to Fishermen and Fish Processors From SRCPP Funds

The DFO has provided grants to fishermen and fish processors. The funding source of these grants was the Special Recovery Capital Projects Program (SRCPP). SRCPP, which was announced in the 1983/84 budget of the government of Canada, was terminated on April 10, 1985. SRCPP was intended to be an anti-recessionary public works program with a budget of 2.4 billion dollars. SRCPP involved the injection of substantial amounts of new funds into the capital budgets of 13 federal departments and agencies in Canada which funded projects located throughout the country. These federal departments and agencies identified those projects under their program jurisdictions which could be implemented quickly with additional funds. Projects were then selected to receive SRCPP monies.

To determine whether countervailable benefits were provided under SRCPP, we looked at the use of the funds and not their source. This is because SRCPP did not create new programs but only accelerated existing programs already administered by separate government agencies and departments.

The DFO received SRCPP funds which were used for a number of programs. Some SRCPP funds were used to improve small craft harbors (*see* section 1.A.10. of this notice.) DFO also used SRCPP funds to construct government-owned and operated marine service centers, bait storage depots, fish unloading systems, and ice-making facilities. These government-owned facilities are not yet operational, and therefore, we are unable to determine if the goods and services offered through these facilities are provided on preferential terms. We will examine these programs in any section 751 review that may be requested, if this investigation results in a countervailing duty order.

In addition, DFO used SRCPP monies to provide individual grants to fish processors and commercial fishermen for ice-making and storage facilities and fish unloading systems in Nova Scotia and New Brunswick. We determine these grants to be countervailable because they are limited to a specific enterprise or industry, or group of enterprises or industries within Canada.

To calculate the benefit from these DFO grants, we allocated the grants received in Atlantic Canada in fiscal years 1984 and 1985 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.079 percent *ad valorem*.

10. Preferential User Fees to Fishermen Under the Small Craft Harbour Program

In 1973, the management of Canada's commercial fishing and recreational harbors was consolidated within the DFO by the Fishing and Recreational Harbours Act. Under this program, the Small Craft Harbours Directorate of the DFO has the responsibility for operating and maintaining over 2,000 small craft harbors, which range from modern active facilities to minor installations serving isolated communities. The program also received SRCPP funds to upgrade harbor installations.

The regulations of the program provide the berthage fees to be charged to users of the harbors. Under the regulations, the berthage fees charged to commercial fishermen are less than those charged to other commercial vessels and recreational boaters. Commercial fishing vessels are charged seven cents per meter of length of vessel per day; other commercial vessels are charged 49 cents per meter per day.

We determine the program to be countervailable because the preferential user fees for harbor facilities are limited to commercial fishermen. To calculate the benefit under this program, we took the difference between the amount of berthage fees paid by commercial fishermen and the amount they would have had to pay if they were charged the same rate as all other commercial vessels. Dividing that difference by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.046 percent *ad valorem*.

11. Government Equity Infusions Into National Sea Products Limited and Fisheries Products International Limited

Petitioner alleges that the government of Canada made equity infusions into National Sea Products Limited, Fishery Products International Limited and United Maritime Fishermen Co-op, and that these equity infusions may have been on terms inconsistent with commercial considerations.

We have verified that the government of Canada and the Province of Nova Scotia made equity investments in National Sea Products Limited (NSP). The government of Canada and the province of Newfoundland made equity investments in Fishery Products International Limited (FPIL). No equity was purchased by the federal or provincial governments in United Maritime Fishermen Co-op. Therefore, we have limited our review to NSP and FPIL.

The provision of equity by the government of Canada and the provinces of Newfoundland and Nova Scotia was part of the restructuring of several major harvesters and processors into NSP and FPIL. The three major companies involved in the restructuring of FPIL were Fishery Products Limited, The Lake Group Limited, and John Penny and Sons Limited of Newfoundland. The restructuring of NSP involved primarily NSP itself and the acquisition of certain assets from H.B. Nickerson & Sons Limited. The restructuring of these firms and the creation of NSP and FPIL occurred in 1983 and 1984, respectively.

During the late 1970's, the five major companies rapidly increased their debt, principally through loans from commercial banks. By the early 1980's, with a downturn in the industry, the position of the companies became an item of concern to the commercial banks, and subsequently to the federal government, because their especially high debt-to-equity ratios began to affect the economic underpinnings of the companies and the Atlantic Canada fishing industry. In 1983, the federal government established a restructuring team in response to the depressed economic conditions of the industry. The federal restructuring team determined that the financial structure of the major companies was ill-suited to the economic conditions which faced the fishing industry, and that the principal challenge to the companies was to increase shareholders' equity to ensure the companies' economic viability. They also believed that liquidation would result in extremely serious disruptions to employment and financial institutions in Atlantic Canada. The government of Canada states that, based on the long-term prospects of this industry and the financial forecasts prepared for NSP and FPIL, equity participation by the government appeared to be a sound investment.

We have consistently held that government provision of equity does not *per se* confer a countervailable benefit. Government equity infusions bestow countervailable benefits only when they occur on terms inconsistent with commercial considerations. Therefore, we must determine whether the government equity infusions made at the time of each of these reorganizations were consistent with commercial considerations. To make these determinations, we analyzed (a) the companies' financial statements, (b) the financial forecasts submitted by the government of Canada, and (c) the terms of the restructuring.

With respect to FPIL, we determine that it was unequityworthy at the time of its organization. Although one private investor exchanged debt for an equivalent amount of equity in FPIL at the time of the government's infusion, we do not consider that transaction to be an appropriate gauge by which to measure the reasonableness of the government's infusion because at the time it seems that the one private investor's only change for recouping the money it had already loaned to FPIL was to help it reorganize.

Our determination rests primarily on the poor financial conditions of the companies merged into FPIL during 1981 through 1983 and on our analysis of the projected future profitability of the company. The predecessor companies, viewed generally, had low profits or lost money on their operations during the period from 1981 through 1983 (even prior to the payment of interest expenses). The primary source of projected future operations presented by respondents consists of a study performed by an independent consulting firm. The projected financial performance of FPIL according to this study, and our own analysis of the general perception of the industrial environment at the time of restructuring, lead us to believe that a reasonable investor acting in a manner consistent with commercial considerations would not have invested in FPIL at the same time that the government of Canada and the province of Newfoundland invested. The projected increase in retained earnings over five years is not large and is accompanied by a deterioration in the financial structure and working capital position of the company. The government estimates of future catches on which these projections were based are subject to great uncertainty. Government action on enterprise allocations and the effect of such a program were both uncertain. By respondents' own admission, although private investors had been sought, none were willing to invest in the restructured company under the conditions in the Atlantic fishing industry at that time. Therefore, based upon our analysis, we determine that equity infusions in 1983 by the government of Canada and the province of Newfoundland into FPIL were made on terms inconsistent with commercial considerations.

We also determine that equity infusions in 1984 by the government of Canada and the province of Nova Scotia into NSP were made on terms inconsistent with commercial considerations. The equity infusions into NSP by the governments of Canada and Nova Scotia consisted of the purchase of preferred shares, including "second preferred shares." A private investor purchased second preferred shares in combination with a larger amount of common stock. The government of Canada argues that the price paid for the second preferred shares was consistent with commercial considerations because there was a private investor willing to purchase them at the same price.

For purposes of this determination, we find that it is not possible to determine the actual value placed on each portion of this transaction by the private investor. Our determination is not based on whether NSP is equityworthy in general. Rather, analysis of these preferred shares purchased by the government indicates that the expected return on them is below that which would be required by a private investor. Therefore, investment in this preferred stock was inconsistent with commercial considerations. Thus, we determine that these infusions confer benefits which constitute a subsidy.

To calculate the benefit of the equity infusion into FPIL, we followed our normal rate of return shortfall methodology. The benchmark rate of return was the national average rate of return on equity. For NSP, we compared the benchmark rate of return to the rate of return on the government shares. The benchmark rate of return was arrived at by using the actual return for another class of preferred stock ("term difficulty preferred shares") purchased at the same time by a private investor. We made an adjustment on the rate of return of the term difficulty preferred shares to account for their tax-free status by taking the difference between the return on tax-free bonds and long-term commercial bonds, and adding that difference to the return on the private investor's term difficulty preferred shares. Adding the benefits from the two equity infusions, and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 1.876 percent *ad valorem*.

B. Joint Federal-Provincial Programs

1. Agricultural and Rural Development Agreements (ARDA)

The Agricultural and Rural Development Act allowed the federal government to enter into agreements with the provincial governments to promote economic development and to alleviate conditions of social and economic disadvantage in certain rural areas. The focus of these agreements was alternative land use, soil and water conservation, and economic development in rural development regions. Funding for projects in these areas was evenly split between the federal and provincial government. These agreements were negotiated with all provinces in Canada, except Prince Edward Island, which in 1969 signed its own Comprehensive Development Plan with the federal government. Of the ARDAs signed with the Atlantic provinces, the Newfoundland and Nova Scotia ARDAs provided specific benefits to the fishing industry located in rural development regions.

The Newfoundland ARDA provided funds for a water supply project to furnish water to fresh fish and herring plants. Although this project was not completed under ARDA, it was later funded and completed under a General Development Agreement subsidiary agreement. Using the design report for the project as best information available, we estimate that 21 percent of the funds under this project benefitted the fresh fish plants. As best information available, we are using the project proposal as our source for the total amount of assistance provided under the project. We are also assuming the financial assistance provided under the project occurred in 1978. The Nova Scotia ARDA provided grants for bait freezing units in certain rural development regions. The grants for these units were disbursed in 1975. Respondents were unable to segregate the benefits provided solely to groundfish production under both the Newfoundland and Nova Scotia ARDAs.

Since the benefits under the Newfoundland and Nova Scotia ARDAs were limited to companies located in specific regions, we determine that the grants provided under the ARDAs is countervailable. We recognize that this program terminated in 1975, with funding continuing until 1978. However, using our grant methodology, grants bestowed in fiscal years 1975 through 1978 continue to confer a benefit during the review period. To calculate the benefit from these programs, we allocated the grants over 12 years.

Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish during the review period for the Newfoundland ARDA grant, and fish and shellfish during the review period for the Nova Scotia ARDA grants, we calculated an estimated net subsidy of 0.005 percent *ad valorem*.

2. P.E.I. Comprehensive Development Plan

The P.E.I. Comprehensive Development Plan (the Plan) was agreed to in 1969 by the federal and provincial governments. The Plan operated until 1984. The federal statutory authority for the Plan was the Fund for Rural Economic Development. The Plan provided for joint federal-provincial government cooperation on devising and implementing economic development programs. The programs instituted by the Plan focused on fisheries, agriculture, tourism, forestry, industrial development, land use, educational facilities and transportation. The federal government was responsible for 75 to 90 percent of funding under the Plan.

The response claimed that none of the programs under the plan benefitted the harvesters or processors of groundfish. However, during verification, it could not be established that the fishery projects did not benefit the harvesters or processors of groundfish. Furthermore, respondents were unable to segregate the benefits going solely to groundfish production. The following projects provided financial assistance to the fishing industry in P.E.I. under the fishery program of the Plan: (1) Landing and handling, (2) resource harvesting, (3) product handling, (4) processing and quality control, (5) silage, (6) cold storage, (7) fishermen's incentives, (8) plant quality, and (9) ice-making facilities. As best information available, we are using information provided by the P.E.I. regional office of the federal Department of Fisheries and Oceans to establish the funding levels of these programs.

Because the federal share of grant money under the Plan was limited to companies within a specific region (i.e., the province of P.E.I.), we determine the federal share to be countervailable. However, since the provincial funds were not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that they are not countervailable. To calculate the benefit from this program, we allocated the federal share of grants received in fiscal years 1973 through 1985 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.039 percent *ad valorem*.

3. General Development Agreements (GDA)

GDAs provide the legal basis for departments of the federal and provincial governments to cooperate in the establishment of economic development programs. The GDAs were umbrella agreements which stated general economic development goals. Ten-year GDAs were signed with all the provinces in 1974, except P.E.I., which had signed the Comprehensive Development Plan in 1969. Five-year GDAs were signed with the Yukon in 1977 and with the Northwest Territories in 1979.

Pursuant to GDAs, subsidiary agreements were signed. The subsidiary agreements were generally between particular federal and provincial govenment departments (e.g., the Department of Fisheries). These agreements established various individual programs, delineated administrative procedures and set out the relative funding commitments of the federal and provincial governments. Subsidiary agreements were typically directed at establishing traditional government program (i.e., extension services), developing infrastructure, providing for economic development assistance for certain regions within the province, and creating programs for specific industries. We verified that subsidiary agreements in Newfoundland, New Brunswick and Nova Scotia provided financial assistance to the fishing industry.

Under the Newfoundland and New Brunswick subsidiary agreements, funds were provided for the construction of marine service centers. We determine the building of government-owned and operated marine service centers not to be countervailable. We are unable to determine if the services offered through these facilities are provided on preferential terms. This issue will be closely examined in any section 751 review that may be requested, if this investigation results in a countervailing duty order.

In Newfoundland, two subsidiary agreements provided funding to the fishing industry for inshore fisheries development and special fish plant water systems. We determine these two subsidiary agreements to be countervailable because they provided direct financial assistance that was limited to a specific enterprise or industry, or group of enterprises or industries. We verified the federal amount of funds disbursed under the two subsidiary agreements. To establish the total level of funding, we are using, at best information available, a federal government publication on GDAs which states that federal expenditures under the Newfoundland subsidiary agreements represents 90 percent of total expenditures.

In the course of verification, it was discovered that New Brunswick grants were provided to the fishing industry under two subsidiary agreements directed at specific regions within the province. These were the Northeast New Brunswick and Developing Regions subsidiary agreements. Under these two subsidiary agreements, grants were disbursed for bait sheds, salt sheds, quality control, computer installation, fish handling machinery, ice machines, processing up-grading and ice-making storage facilities. Respondents were unable to segregate the grants under the two subsidiary agreements which went solely to groundfish production. Because the provincial and federal funds provided under the subsidiary agreements in New Brunswick were limited to companies within a specific region, we determine funds provided under these agreements to be countervailable. Because there was no information in the questionnaire response on the amount of funding provided under this program, we are using, as best information available, the amounts indicated in the annual reports of the Community Improvement Corporation (the administering authority) to determine the total level of funding for the Northeast New Brunswick subsidiary agreement. For the Developing Regions subsidiary agreement, we are using as best information available, a listing of federal expenditures provided by the provincial office of DRIE. We are using, as best information available, a federal publication on GDAs which states that federal expenditures uder the New Brunswick subsidairy agreements represent 80 percent of total expenditures.

In Nova Scotia, the Strait of Canso subsidiary agreement provided for a water supply project designed to improve the fresh water supply to a fish processor. Because there was no information in the questionnaire response on the amount of funding provided under this program, we are using, as best information available, the total estimated project cost as shown by "Schedule A" of the agreement. Because the provincial and federal funds provided under this subsidiary agreement were limited to a company within a certain region, we determine the grants to be countervailable.

To calculate the benefits under the fishery subsidiary agreements described above, we allocated the grants received in fiscal years 1973 through 1984 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.181 percent *ad valorem*.

4. Transitional Programs

Between the termination of the GDAs and the beginning of Economic and Regional Development Agreements, three programs were founded solely by the federal government. They were the Southeast New Brunswick Development Initiative, the Quebec Development Plan, and the Fisheries Development Program for Coastal Labrador (which is discussed in section IV.B.1. below).

The Southeast New Brunswick Development Initiative began in 1981 and will end in 1986. The federal Department of Fisheries and Oceans administers the Initiative. Under the Initiative, grants are provided to fish processors for the upgrading of fish processing and transportation equipment. Respondents were unable to segregate the benefits going solely to groundfish production. Because the grants under the Initiative are limited to companies within certain regions, we determine them to be countervailable.

The Quebec Development Plan began in 1983 and is expected to last until 1998. Under the Plan, grants have been provided for expansion of the commercial fishing fleet and improvement of commercial fishing vessels. The Plan is administered by the federal Department of Fisheries and Oceans. Because the grants under the Plan are limited to companies within certain regions, we determine them to be countervailable.

To calculate the benefit under these transitional programs, we allocated all the grants received over 12 or 18 years, as appropriate. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.060 percent *ad valorem*.

5. Economic and Regional Development Agreements (ERDA)

ERDAs are essentially a continuation of the GDAs. ERDAs were signed with every province and territory in the early 1980's. Similar to GDA subsidiary agreements, ERDA subsidiary agreements establish programs, delineate administrative procedures and set up the relative funding commitments of the federal and provincial governments. We verified that three subsidiary agreements relating to development of the fisheries industry were signed with P.E.I., New Brunswick and Nova Scotia.

Under the P.E.I. subsidiary agreement, four programs were founded by the federal government: resource development, harvesting, infrastructure and pilot projects. In addition, three programs were funded by the provincial government: quality enhancement, quality improvement and product utilization. At verification, conflicting documentation was provided regarding the total monies disbursed under the subsidiary agreement. We are using, as best information available, the 1984–1985 ERDA Review Report to establish the aggregate amount of funding. Because these programs provided funds to a specific enterprise or industry, or group of enterprises or industries, we find the grants to be countervailable.

We verified that funds under the New Brunswick fishery subsidiary agreement expended for administrative costs and programs were not related to the production of groundfish. Therefore, we determine the funds provided under these programs were not used. We verified that no funds were disbursed under the Nova Scotia subsidiary agreement as of March 31, 1985.

To calculate the benefit under the P.E.I. fishery subsidiary agreement, we allocated the total value of all federal and provincial funds received in fiscal year 1985 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.007 percent *ad valorem*.

6. Interest-Free Loans to National Sea Products

We found during verification that National Sea Products had three interest-free loans from government sources. The sources of these loans were the federal Department of Industry, Trade & Commerce, the Newfoundland Industrial Development Corporation, and the Nova Scotia Resources Development Board. Since we are unable to determine the extent to which interest-free loans may be provided by each of these sources to other industries, we find these loans to be limited to a specific enterprise or industry, or group of enterprises or industries, and hence countervailable since they are on terms inconsistent with commercial considerations. For two of the loans, we are using our long-term methodology because the interest rate is fixed for the life of the loans. For the third loan, we are using our short-term loan methodology since the interest rate is scheduled to change during the term of the loan. We divided the benefit from these loans by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period to calculate an estimated net subsidy of 0.018 percent *ad valorem*.

C. Provincial Programs

1. New Brunswick: Loans from the Fisheries Development Board (NBFDB)

The predecessor to the Fisheries Development Board was the Fisheries Loan Development Board (FLDB), originally established in 1946 by the Fisherman's Loan Act (FLA). The purpose of the FLDB under the FLA was to improve and develop the fishing industry in the province. The FLA allowed the FLDB to make loans for the building or purchase of boats, the purchase of new engines and fishing gear, or any other expenditure which the Board deemed proper. Interest rates charged for loans under the FLA were not to exceed five percent and were fixed for the term of the loan. The term was not to exceed 15 years and for each approved application to buy a boat or engine, a deposit of 30 percent of the estimated cost was required.

Effective March 1, 1978, the FLA was replaced by the Fisheries Development Act (FDA). The latter replaced the FLDB with the NBFDB. Under the FDA, the Minister of Fisheries, upon recommendation from the NBFDB, could provide financial assistance in the form of direct loans to a person or company in the fishing industry. The term for all loans under the current FDA regulations is set at a maximum of 25 years with a minimum downpayment of five percent of the value of the loan.

Respondents contend that, because loans under the NBFDB are provided on terms similar to those charged on loans provided by the New Brunswick Farm Adjustment Board, loans under this program are not limited to a specific enterprise or industry, or group of enterprises or industries. We disagree.

There is no evidence that loans under the farm and fishing programs are linked in any way to an overall provincial lending policy to provide loans on comparable terms to the various qualifying groups. Thus, we must look at each of these programs separately. Loans under the Farm Adjustment Board program were found to be not countervailable in *Swine, supra*, because they were available on similar terms to all industries in the agricultural sector. In contrast, loans under the NBFDB are limited to one specific industry, the fishing industry. Comparing the appropriate long- and short-term benchmark interest rates described above to the various fixed and variable interest rates charged under this program, we also determine that these loans were made on terms inconsistent with commercial considerations.

We were unable to verify much of the information provided in the questionnaire response relating to the actual terms and conditions of these loans. We therefore are using, as best information available, information contained in the relevant regulations and annual reports of the Department of Fisheries.

To determine the term for loans provided under the program, we used, as best information availabe, the regulations under the FLA, which state that the maximum allowable term of a loan was 15 years. Our calculations are therefore based on loans provided from 1970–1985. We treated loans given from 1970–1980 and 1983–1985 as fixed rate loans, and applied our long-term loan methodology outlined in the Subsidies Appendix. Loans given in 1981 and 1982 were variable-rate long-term loans. To calculate the benefits from the variable rate loans, we took the difference between the benchmark interest rate and the interest rate in effect during the review period and applied that difference to the amount of principal outstanding on these loans during the review period. Adding the benefits and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.259 percent *ad valorem*.

2. New Brunswick: Fish Unloading Systems and Icemaking Program (FUSIP)

The New Brunswick Department of Fisheries, through the NBFDB, administers a fish chilling grant program under the authority of the Fisheries Development Act of 1977 and New Brunswick Regulation 84–166. This is the only fish chilling assistance program available in New Brunswick. During verification, we confirmed that neither the Fish Unloading Systems and Icemaking Facilities Board nor a program we referred to in our notice of initiation as "Assistance for Icemaking and Fish Chilling Facilities" exists.

FUSIP provides grants for fish chilling facilities for both boats and plants to improve the quality of landed fish and fish products. Eligible applicants include both owners of fishing vessels and fish processing facilities. Assistance is provided on the basis of 50 percent of the total cost of the ice-making facility or equipment to a maximum of $15,000 per application.

Because benefits under this program are available exclusively to the fishing industry, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is counteravailable. To calculate the benefit from this program, we allocated all grants received in fiscal years 1981 through 1985 over 12 years. Applying our grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.010 percent *ad valorem*.

3. New Brunswick: Insurance Premium Prepayment Program

To provide vessel insurance for recipients of loans through the NBFDB, the Department of Fisheries purchases insurance on behalf of the recipient and includes the costs in the annual premium paid on the loan for the vessel. These insurance prepayment loans, which are provided in accordance with the Fisheries Development Act of 1977 and Regulation 84–166, are available at the same interest rates as those charged under the NBFDB. These loans, however, must be paid within one year. This program is available only for vessels financed through the NBFDB, discussed in section I.C.I. above, and is not available to fishermen financing boats through commercial lending institutions.

Loans under this program are available exclusively to commercial fishermen, and are therefore limited to a specific enterprise or industry, or group of enterprises or industries. Comparing the interest rates charged on these loans to the appropriate benchmark described in the "Analysis of Programs" section of this notice, we also determine that these loans are provided on terms inconsistent with commercial considerations, and are therefore countervailable. To calculate the benefit from this program, we used our methodology for short-term loans. Because we were unable to verify the interest rate reported in the response, we used, as best information available, the lowest quarterly provincial lending rate for 1985, as supplied by the New Brunswick Department of Finance to represent the interest rate charged under this program. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated subsidy of 0.004 percent *ad valorem*.

4. New Brunswick Interest Rate Rebates

Information contained in the New Brunswick Department of Fisheries 1984 Annual Report (Annual Report) indicates that the province provides interest rate rebates to commercial fishermen. Under this program, the government rebates either 25 or 50 percent of the interest charged on NBFDB loans that were provided from March 1, 1978, to December 6, 1979. Although this rebate program was repealed on December 6, 1979, loans provided during that period that are still outstanding are eligible for the rebate.

Because benefits under this program are available only to commercial fisherman, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is contervailable since such rebates are inconsistent with commercial considerations.

To calculate the benefit from this program, we divided the interest rebates provided during the review period by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period. On this basis, we calculated an estimated net subsidy of 0.018 percent *ad valorem*.

5. New Brunswick: Technical Services

Information contained in the Annual Report indicates that the Technical Services Branch of the New Brunswick Department of Fisheries provides assistance to the fishing industry under three programs. Under the Aquatic Resources Program, the Department funds aquacluture projects such as development of commercially viable aquaculture environments and testing the adaptability of certain species. Under the Fishing Vessel and Gear program, the Department will place various types of new equipment free-of-charge on board their fishing vessels for projects such as development of new types of fishing trawlers, long-lining systems and reinforcing equipment for rough weather fishing. Under the Infrastructure Program, research projects for aquaculture and hatchery facilities development, and improvement projects for construction of haul-out ramps and marine service center facilities are funded.

Because aquaculture projects pertain to species which are not the subject of this investigation, we determine that the Aquatic Resources Program does not confer benefits upon exports of the subject merchandise. Projects under the Infrastructure Program do not benefit the fishing industry specifically, but provide benefits to all users of marine facilities, including pleasure boats and marine transportation facilities. We therefore find that the Infrastructure Program is not countervailable because it is not limited to a specific enterprise or industry, or group of enterprises or industries. However, because benefits under the Fishing Vessel and Gear Program are limited to the fishing industry, we consider the program to be countervailable. We treated the value of the machinery provided as a grant.

According to our grant methodology, we would normally take financial data for the last 12 years (the average useful life of equipment in the fishing industry) and allocate grants in each year over a 12-year period. However, because financial data were unavailable for years other than the 1983–84, we used, as best information available, the total grants disbursed as reported in the 1983–84 Annual Report as representing the amount disbursed during the review period, and have expensed the full amount in the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.015 percent *ad valorem*.

6. Newfoundland: Grants for Purchasing and Constructing Boats

Under the direction of the Fisheries Loan Board (FLB), an agency in the Ministry of Fisheries, and pursuant to the Fishing Ships (Bounties) Act of 1970, the government of Newfoundland operates two programs which provide grants for purchasing and constructing fishing vessels: the Fishing Ship Bounty Program and the Small Fishing Boat Bounty Program. (This and the following program were referred to in our notice of initiation as the Newfoundland Fishing Vessel Assistance Plan.)

Grants are provided to commercial fishermen for the construction and purchase of fishing vessels. There are stringent eligibility requirements, which include: a) that the applicant be a resident of Newfoundland; b) that the vessel be newly built in Newfoundland and be used primarily in the fishing industry; and c) that the vessel be built or purchased in accordance with permits requiring compliance with technical specifications. Fishing vessels between 35 and 65 feet qualify for grants under the Fishing Ships Bounty Program; vessels less than 35 feet qualify under the Small Boat Bounty Program. The right to receive the grant accrues upon completion of the ship and final survey. Those who receive grants must undertake to use the vessel primarily in fishing for a period of five years.

Because grants under these programs are available only for vessels used by commercial fishermen, we determine that these programs are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable.

To calculate the benefit from these programs, we allocated the grants received in fiscal years 1967 through 1985 over 18 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.150 percent *ad valorem*.

7. Newfoundland: Grants for the Rebuilding and Repair of Fishing and Coastal Vessels (RRFCV)

Under the direction of the FLB and pursuant to the Fishing and Coastal Vessels Rebuilding and Repairs Act of 1970, the government of Newfoundland operates the RRFCV. This program provides grants for the reconstruction of ships measuring 35 feet or more, covering up to 35 percent of approved costs of repair or rebuilding. The vessels must be older than eight years and in excess of ten tons underdeck. Any work approved by the FLB must be performed in Newfoundland shipyards. To be eligible, a ship owner must be a resident of Newfoundland for at least one year. As in the grant programs for the construction of new ships, rebuilding and repair must meet the technical specifications laid down by the regulations. The FLB may provide grants for both fishing vessels and commercial vessels that are engaged in coastal trade. In actuality, however, grants are rarely disbursed for reconstructing coastal transport vessels and, in recent years, no money has been disbursed on these types of vessels.

Because grants under this program are, in fact, provided almost solely for vessels used by the commercial fishing industry, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

To calculate the benefit from this program, we allocated the grants received in fiscal years 1968 through 1985 over 18 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.003 percent *ad valorem*.

8. Newfoundland: Grants to Cover Operating Expenses

The province of Newfoundland has provided grants to National Sea Products to cover current operating expenses of its Burgeo Plant. The funds were provided under an agreement which was signed in 1982, disbursed funds from 1982 through 1985, and expired in 1985.

Because this program was limited to a specific enterprise, we determine that it is countervailable. To calculate the benefit, since this program was a recurring grant program, we allocated the amount of funds received in our review period over the f.o.b. value of production in Atlantic Canada of fish. This resulted in an estimated net subsidy of 0.096 percent *ad valorem*.

9. Newfoundland: Loans from the Fisheries Loan Board

Under the direction of the FLB and pursuant to the Fisheries Loan Act of 1970, the government of Newfoundland provides long-term loans for the development and improvement of the fishing industry. Commercial fishermen who are residents of Newfoundland and who have had fishing experience during the previous two seasons and earned 75 percent of their income from the harvesting industry during the previous two seasons are eligible. The loans are given for the purchase, construction and repair of ships measuring up to 65 feet, the purchase of new engines and fishing gear, the construction of plants and purchase of plant equipment, and for other types of capital expenditures. Interest rates, which are set by regulation, are fixed for the term of the loan. The current interest rate charged is tied to the prime rate charged by the Bank of Montreal less three percent. Maximum terms of repayment range from ten years for equipment to 12 years for wooden ships; downpayments of ten to 15 percent of the loan amount are required. The maximum loan amount is $50,000.

Respondents contend that, because loans under this program are provided on terms similar to those charged on loans provided by the Newfoundland Farm Loan Board, loans under this program are not limited to a specific enterprise or industry, or group of enterprises or industries. We disagree.

There is no evidence that loans under the farm and fishing programs are linked in any way to an overall provincial lending policy to provide loans on comparable terms to the various qualifying groups. Thus, we must look at each of these programs separately. Loans under the Farm Loan Board program were found to be not countervailable in *Swine, supra*, because they were available on similar terms to all industries in the agricultural sector. In contrast, loans under the Fisheries Loan Board program are limited to one specific industry, the fishing industry. Comparing the appropriate benchmark described in the "Analysis of Programs" section of this notice to the interest rate charged under this program, we also determine that these loans were made on terms inconsistent with commercial considerations.

To calculate the benefit, we used the long-term loan methodology outlined in the Subsidies Appendix. We were unable to verify information in the response on the average number of years loans were outstanding. Therefore, as best information available, we are assuming a 12-year loan term, which is the maximum authorized by the FLB for wooden ships. We used, as best information available, the amount of loans disbursed in each of the past 12 years, and applied our long-term loan methodology. We used the appropriate benchmark described in the "Analysis of Programs" section of this notice. We also treated loans written-off during the review period as grants expensed in that year. Dividing the benefit by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.245 percent *ad valorem*.

10. Newfoundland: Loan Guarantees from the FLB

The FLB will guarantee 20 percent of the aggregate amount of chartered banks' term loans to fishermen for the purchase or construction of fishing vessels. There is no charge for the guarantees. Because these loan guarantees are provided exclusively to the fishing industry and at no charge, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries, that they are provided on terms inconsistent with commercial considerations, and are therefore countervailable.

To calculate the benefit from this program, we used as a benchmark, the guarantee fee described above in section I.A.8. of this notice on the FILP. Taking the balance of guaranteed loans outstanding during the review period, multiplying by the benchmark guarantee fee of one percent, and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.013 percent *ad valorem*.

11. Newfoundland: Operation of Fisheries Facilities and Services

Based on information contained in the Public Accounts for the Department of Fisheries, we have found that the government of Newfoundland provides grants to Newfoundland commercial fishermen under the Longline Program, a program designed to encourage them to use longlines in their operations. Because grants under this program are provided only to commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

Using our grant methodology, we would take financial data for the last 12 years, and allocate grants in each year over a 12 year period. Because financial data were unavailable for any years other than 1983–84, we used, as best information available, the total grants disbursed in 1983–84 as representing the amount disbursed during the review period, 1984–85, and expensed this amount in the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.001 percent *ad valorem*.

12. Newfoundland: Construction and Repair of Fisheries Facilities

Based on information contained in the Public Accounts for the Department of Fisheries, the government of Newfoundland offers grants to local commercial fishermen committees to purchase materials necessary for building and repairing fisheries and marine facilities. A large percentage of expenditures go to infrastructure projects available to all boat users. However, some grants go strictly to fisheries facilities. Because these grants are provided only to commercial fishermen, we determine that assistance for fisheries facilities is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

Using our grant methodology, we would take financial data for the last 12 years, and allocate grants in each year over a 12 year period. Because financial data were unavailable for any years other than 1983–84, we used, as best information available, the total grants disbursed for fisheries facilities in 1983–84 as representing the amount disbursed during the review period, and expensed this amount to the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.009 percent *ad valorem.*

13. Newfoundland: Enhancement of Fishing Operations

Based on information contained in the Public Accounts for the Department of Fisheries, the government of Newfoundland awards funding for special research and development projects aimed at improving the techniques used in the Newfoundland fishing industry. In 1983–84, the only year for which information was available, grants went to research on longline use and research for improving the overall quality of fish products by establishing universal standards of fresh fish quality. Because we have no information on other research and development projects funded by the government of Newfoundland, nor information on the availability of research results, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. Because financial data were unavailable for any years other than 1983–84, we used, as best information available, the total grants disbursed for research in offshore fishing operations in 1983–84 as representing the amount disbursed during the review period, and expensed this amount to the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.001 percent *ad valorem.*

14. Newfoundland: Marketing Assistance

Based on information contained in the Public Accounts for the Department of Fisheries, the government of Newfoundland offers grants for marketing assistance, designed to encourage consolidation of marketing by small processors to offset the market advantages exercised by the larger processing companies. Because grants under this program are provided only to fish processors, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. Because financial data were unavailable for any years other than 1983–84, we used, as best information available, the total grants disbursed for marketing assistance in 1983–84 as representing the amount disbursed during the review period, and expensed this amount to the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.001 percent *ad valorem.*

15. Nova Scotia: Fishing Vessel Construction Program (FVCP)

The FVCP was designated to assist individuals, companies, and associations in the fishing industry to construct and operate fishing vessels. The FVCP was in effect from November 22, 1977, through March 31, 1980. The Department of Fisheries of Nova Scotia (DFNS) assessed applications for assistance on the basis of the contribution that construction and operation of the vessels would have on the fishing industry of Nova Scotia. Vessels eligible for assistance had to be operated as fishing boats, have a length not exceeding 64 feet, 11 inches, and be built and registered in Canada. Eligible applicants had to agree to keep their vessels registered in Canada and to engage in fishing for five years. Depending on the size of the vessel and the availability of federal subsidies, the amount of the FCVP grant ranged from zero to 35 percent of the vessel's cost.

Because grants under this program were available only for certain vessels used by commercial fishermen, we determine that this program was limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

We recognize that this program terminated in 1980. However, according to our grant methodology, grants bestowed from 1978 through 1980 continue to confer benefits during the review period. To calculate the benefit from this program, we allocated the grants received in fiscal years 1978 through 1980 over 18 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.014 percent *ad valorem.*

16. Nova Scotia: Loans from the Fisheries Loan Board (NSFLB)

The NSFLB, established by the Fisheries Development Act (FDA), administers a loan program designed to provide loans and loan guarantees to commercial fisherman in order to encourage, sustain, improve, and develop the fishing industry of Nova Scotia. Under the regulations pursuant to the FDA, loans are to be made to commercial fisherman for the purpose of building, purchasing, or upgrading boats, developing aquaculture, and assisting the fishing industry generally. In fact, loans made by the NSFLB over the past 12 years have been used primarily for the purchase or upgrading of fishing vessels. To be eligible for a loan from the NSFLB, a commercial fisherman must have at least two years commercial fishing experience within the last five years and be engaged primarily in commercial fishing. Interest rates on approved loans are fixed at eight percent on the first $150,000, 11 percent on the second $150,000, and the current government borrowing rate for loans over $300,000. Interest rates are fisced for the term of the loan. Depending on whether the loan is used to upgrade or to purchase vessels, the repayment period for the loans ranges between five and 12 years. A 20 percent downpayment for each loan is required.

Repondents contend that, because loans under the NSFLB are provided on terms similar to those charged on loans provided by the Nova Scotia Farm Loan Board, loans under this program are not limited to a specific enterprise or industry, or group of enterprises or industries. We disagree.

There is no evidence that loans under the farm and fishing programs are linked in any way to an overall provincial lending policy to provide loans on comparable terms to the various qualifying groups. Thus, we must look at each of these programs separately.

Loans provided by the Farm Loan Board program were found to be not countervailable in *Swine, supra*, because they were available on similar terms to all industries in the agricultural sector. In contrast, loans under the NSFLB are limited to one specific industry, the fishing industry.

Comparing the appropriate benchmark described in the "Analysis of Programs" section of this notice to the interest rate charged under this program, we also determine that these loans were made on terms inconsistent with commercial considerations.

To calculate the benefit, we used the long-term loan methodology outlined in the Subsidies Appendix. We treated loans written off during the review period as grants expensed in that year. Dividing the benefit by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.375 percent *ad valorem*.

17. Nova Scotia: Industrial Development Division (IDD) Grants

The Industrial Development Division (IDD) of the Nova Scotia Department of Fisheries administers assistance programs designed as incentives for development of the fishing industry of Nova Scotia. Grants may be provided on a 50 percent cost-sharing basis to a maximum of $15,000 per location per fiscal year. An applicant must be a licensed commercial fisherman, processing company, or fishermen's organization. Eight separate programs affecting the fishing industry in Nova Scotia are currently administered by the IDD. (These include three programs referred to individually in our notice of initiation as Icemaking and Fish Chilling Facilities, Gutting Machine, and Plant Development Programs.) Each program is designed to encourage technological innovations and to improve the quality of the fishing industry as a whole. The following is a list of the programs and the general purpose of each:

- *IDD Safety Program.* Technical and financial assistance is provided to improve safety on vessels and in processing plants.
- *IDD Quality Improvement Program.* Technical and financial assistance is available for equipment on vessels and in plants that will improve the quality of fish and fish products. Equipment eligible for grants includes: fiberglass or plastic containers, on board insulation, refrigeration, and gutting machines. Grants are also available for plant development.
- *IDD Increased Productivity Program.* Technical and financial assistance is available to improve the productivity and efficiency of fish harvesting and fish plant operations. Unloading equipment, bait sheds, and deck equipment are examples of some items covered by this program.
- *IDD Harbor Facilities Program.* Assistance is available for constructing and improving private harbor facilities such as private wharves, gear sheds, slipways, and haulouts.
- *IDD Infrastructure Program.* Financial assistance is provided to enable processing plants and private wharves to access fresh water supplies and electrical services.
- *IDD Fleet Development Program.* Assistance is available for developing improved vessel design.
- *IDD Technology Development for Fishing Vessels Program.* Assistance is available for the development of onboard equipment. Equipment used to harvest less commonly harvested species and fuel economy equipment are included under the program.
- *IDD Technology Development for Fish Gear Program.* This program is designed to assist the commercial fisherman to purchase safer, more efficient fishing gear.

Because each of the IDD programs outlined above provides assistance exclusively for the fishing industry, we determine that these programs are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable.

To calculate the benefit from these programs, we allocated the grants received since the inception of the program (1977) through fiscal year 1985 over 12, 16 or 18 years appropriate. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.81 percent *ad valorem*.

18. Nova Scotia: Market Development Assistance

Under the Marketing Development Division of the Department of Fisheries, the Market Development Service (MDS) functions to promote fish products generically through the use of mall displays, cooking demonstrations, and distribution of recipe pamphlets and other promotional material. The majority of MDS's activities are directed at the Canadian domestic market. However, amounts spent to cover the costs of the publishing and distribution in the United States of posters and recipe pamphlets promoting Nova Scotia seafood provided a benefit to exporters of fish to the United States during the review period. Because these activities promoted exports to the United States, we determine that the expenses incurred are countervailable.

Dividing the amount spent on promotional activities on exports to the United States by the f.o.b. value of exports of fish and shellfish from Canada to the United States during the reveiw period, we calculated an estimated net subsidy of 0.008 percent *ad valorem*.

19. P.E.I.: Fishing Vessel Subsidy Program (FVSP)

Under recommendation of the P.E.I. Treasury Board, the P.E.I. Minister of Fisheries in 1978 established the FVSP. This program, which provided grants for the acquisition of new vessels, was in effect from 1978 to 1984. Participation in the program was open to all P.E.I. individuals, partnerships or firms engaged in commercial fishing who had not participated in either the federal or provincial vessel subsidy programs during the previous eight years. Vessel size was limited to between 30 and 75 feet, and only those vessels constructed in P.E.I. shipyards were eligible. Participating fishermen received a payment equal to 15 percent of the total cost of the new vessel and engine, plus all other new fixed equipment required on board the vessel, up to a maximum of $3,000. In 1983, the regulations were amended to increase the maximum assistance level to $3,500 for vessel purchases and also to provide grants of 15 percent of the cost, to a maximum of $2,000, for equipment purchased in P.E.I. and installed in new fishing vessels constructed off-island. The latter amendment was to provide assistance to commercial fishermen who wished to install P.E.I. supplied diesel engines in their new vessels but were ineligible for assistance through the Engine Conversion Program (see section I.C.21. of this notice).

Because grants under this program were available only to vessels and equipment used by commercial fishermen, we determine that this program was limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

We recognize that this program terminated in 1984. However, using our grant methodology, grants bestowed from 1978 through 1984 continue to confer benefits during the review period. To calculate the benefit, we allocated those grants for equipment installed in fishing vessels over 12 years, and for fishing vessel construction over 18 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.015 percent *ad valorem*.

20. P.E.I.: Near and Offshore Vessel Assistance Program (NOVAP)

The NOVAP was established in 1982. Similar to the vessel subsidy program described above, NOVAP provides grants for offshore vessels as well as near-shore vessels. Assistance is provided for 25 percent of the capital costs, to a maximum of $60,000, if the vessel is eligible for federal assistance, and 35 percent, to a maximum of $80,000, if ineligible. Commercial fishermen must agree to provide catch and other data and keep the vessel in the P.E.I. fishing industry for a period of 10 years. Because P.E.I. boatyards are unable to supply larger vessels, the commercial fisherman is free to purchase from any domestic or foreign supplier. Payment of the grant is made to the vessel owner upon satisfactory inspection by the DFL and presentation of paid receipts for the eligible amounts.

Because grants under this program are available only for vessels used by commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. To calculate the benefit, we allocated the grants received in fiscal years 1983 to 1985 over 18 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.004 percent *ad valorem*.

21. P.E.I.: Engine Conversion Program

The Engine Conversion Program provides grants to commercial fishermen to help defray the initial costs of conversion from gasoline to diesel engines. Participation is voluntary and is available to all P.E.I. commercial fishermen with a commercial fishing license who own vessels powered by gasoline engines. Only one diesel engine conversion grant will be made per commercial fishing vessel over the life of the vessel and, as of May 21, 1982, only those diesel engines purchased from P.E.I. suppliers were eligible for assistance.

The assistance covers 25 percent of the capital cost to a maximum of $2,500 for new diesel engines installed in existing vessels with gasoline engines at least a year old. The applicant must certify that the diesel engine and related equipment will be used for commercial fishing for a minimum of five years. Payment of the grant is made to the applicant upon presentation of paid receipts for the eligible equipment and a satisfactory inspection by the DFL.

Because grants under this program are available only for vessels used by commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. To calculate the benefit from this program, we allocated the grants received in fiscal years 1983 through 1985 over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.006 percent *ad valorem*.

22. P.E.I.: Commercial Fishermen's Investment Incentive Program (CFIIP)

The CFIIP, which was instituted in 1983, provides interest reduction grants to all P.E.I. commercial fishermen who are holders of *bona fide* fishing permits. Eligible projects include new or used capital asset purchases, acquisition of fishing enterprises and fishing privileges, repairs to capital items and working capital loans.

Interest reduction grants are paid on loans secured from recognized commercial lending institutions. Upon obtaining the loan, the commercial fisherman is eligible to apply for an interest rebate of no more than four percent per annum if the lending rate is at or above 12 percent. When the lending rate falls below 12 percent, the interest rebate is reduced. The amount of the reduction is equal to the difference between the lending rate and 12 percent. The effective minimum rate to the fisherman under the program is therefore eight percent (*e.g.*, if the secured loan has an interest rate of 11 percent, the rebate is reduced to three percent; which reduces the rate to the prescribed minimum of eight percent). Eligibility is limited to the life of the loan or the first five years, whichever is less. The maximum aggregate of loans to individual fishing enterprises cannot exceed $30,000 at any one time. The grant is paid to the commercial fisherman upon receipt of an itemized statement from the recognized lending institution and with the certification that the borrower has paid the amount of interest due. For fishermen who were eligible to receive an interest reduction grant in 1984, payment was deferred until 1985. Grant payments were then disbursed in 1985 for the eligible amounts in both years.

Because grants under this program are available only to commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. Dividing the interest reduction grants received during the review period by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.003 percent *ad valorem*.

23. P.E.I.: Assistance for the Construction of Icemaking and Fish Chilling Facilities (ACIFCF)

This program, established in 1974 and administered by the Department of Fisheries and Labor (DFL), provided financial assistance for the construction of storage rooms, the purchase of icemakers, temperature control equipment, and for associated installation costs. The program was available to all inshore facilities located within P.E.I. and was formally terminated in 1983. Originally, the level of assistance was to provide for 35 percent of the cost of required construction, equipping or modification of ice-making and refrigeration facilities. This was reduced to 25 percent in 1979 and 1980. In 1981, benefits were increased to 75 percent of the total cost, up to a maximum of $75,000. Funding for the program from 1981 until its termination was provided by the P.E.I. Comprehensive Development Plan (see section I.B.2. of this notice).

Because grants under this program were available only to inshore fish processing facilities used by the fishing industry, we determine that benefits under this program were limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable. We recognize that this program terminated in 1983. However, according to our grant methodology, grants bestowed from 1974 through the program's termination confer benefits during the review period.

In our preliminary determination, we based our findings on information submitted in the response stating that, of all companies which had received grants under this program, only seven exported certain fresh Atlantic groundfish to the United States during the review period. However, we were unable to verify this statement. We therefore are using, as best information available, all grants received by fishermen's cooperatives and by companies holding fresh fish export licenses during the review period. We allocated these grants over 12 years. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.003 percent *ad valorem*.

24. P.E.I. Fish Box Pool Program (FBPP)

In 1975, the DFL instituted the FBPP to provide commercial fishermen with safer and more sanitary containers in which to transport their catch. These tote boxes, constructed of heavy duty plastic, were purchased by the DFL in bulk and made available to P.E.I. commercial fishermen at cost. The commercial fishermen had the option of either purchasing the boxes outright or taking out a five-year, five percent interest loan from the DFL to finance the purchase. Loans were provided under this program until 1979. In 1980, the DFL sold fish boxes to fishermen on a cash basis only. The program terminated in 1980.

In our preliminary determination, we stated that this program had been terminated. However, during verification, we obtained information which indicated that six loans under this program were still outstanding.

Because these loans were available only to commercial fishermen, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries. In addition, because we have no information on the interest rates charged on certain loans, nor information on principal repayments for certain other loans, as best information available, we also determine that loans were provided on terms inconsistent with commercial considerations. Hence, they are countervailable.

To calculate the benefit from this program, because of the lack of information provided on interest rates or payment terms, and given the small value of loans outstanding, we are treating the outstanding balance as a grant and expensing the total during the review period. Dividing the benefit by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.002 percent *ad valorem*.

25. P.E.I. Technical Upgrading Program

Based on information contained in the Department of Fisheries and Labor Annual Report (P.E.I. Annual Report), we found that the government of P.E.I. operates the Technical Upgrading Program. This program provides funding to commercial fishermen and processors to attend industry meetings and receive specialized training.

Because grants under this program are provided exclusively to the fishing industry, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable. To calculate the benefit from this program, because information was unavailable on expenditures during the review period, we used, as best information available, the total value of grants reported in the 1983 P.E.I. Annual Report as representing the amount disbursed during the review period. Dividing that amount by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated subsidy of 0.001 percent *ad valorem*.

26. P.E.I. Fresh Fish Marketing Program

Based on the information contained in the P.E.I. Annual Report, we found that the government of P.E.I. operates the Fresh Fish Marketing Program. Under this program, the DFL, in association with P.E.I. groundfish processors, entered into a contract arrangement with a New England marketing firm to market fresh P.E.I. groundfish in the New England market. Because this program promotes exports, we determine that assistance under this program confers benefits which constitute export subsidies.

To calculate the benefit from this program, because information was unavailable on expenditures during the review period, we used, as best information available, the total value of financial assistance reported in the 1983 P.E.I. Annual Report as representing the amount disbursed during the review period. Dividing that amount by the f.o.b. value of production of exports of the subject merchandise to the United States during the review period, we calculated an estimated net subsidy of 0.090 percent *ad valorem*.

27. P.E.I. Fishing Industry Technology Program

Based on information contained in the P.E.I. Annual Report, the government of P.E.I. operates the Fishing Industry Technology Program. This program was initiated to assess opportunities for application of computer technology in the P.E.I. fishing industry. During 1984, a grant was provided to a major fish processor in Kings County for software development and training to upgrade its existing computer system. The software was designed to give better control on yield of fillets on groundfish species.

Because benefits under this program are provided exclusively to the fishing industry, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable. To calculate the benefit from this program, because information was unavailable on expenditures during the review period, we used, as best information available, the total value of grants reported in the 1983 P.E.I. Annual Report as representing the amount disbursed during the review period. Dividing that amount by the f.o.b. value of production in Atlantic Canada of the subject merchandise during the review period, we calculated an estimated net subsidy of 0.012 percent *ad valorem*.

28. P.E.I. Technology Improvements Program

Based on information contained in the P.E.I. Annual Report, we found that the government of P.E.I. operates the Technology Improvements Program. This program provides financial assistance to processing firms for leasing particular machinery on a trial basis to assess the suitability and economic benefit to the firm's operations. During the 1984 fishing season, three plants participated in the program. Two of the machines tested were a groundfish filleting line and a skinning machine. In addition, three fish unloading systems were purchased by the DFL and were leased to the industry on a trial basis during 1984.

Because grants under this program are provided exclusively to the fishing industry, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries. In addition, because we have no information on the terms of the assistance provided, nor on the leasing arrangements entered into, we determine that the provision of these benefits is inconsistent with commercial considerations, and is therefore countervailable. To calculate the benefit from this program, because information was unavailable on expenditures during the review period, we used, as best information available, the total value of assistance reported in the 1983 P.E.I. Annual Report as representing the amount of a grant disbursed during the review period. Dividing that amount by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.002 percent *ad valorem*.

29. P.E.I. Onboard Fish Handling Systems Program

Based on information contained in the P.E.I. Annual Report, the government of P.E.I. operates the Onboard Fish Handling Systems Program. The government provides assistance to commercial vessel owners at the rate of 25 percent of the installed capital cost, to a maximum of $10,000, for onboard fish gutting machinery and fish cooling units. According to the 1984 P.E.I. Annual Report, two grants were given to vessel owners in 1982. No applications for assistance were received in 1983 or 1984.

Because benefits under this program are provided exclusively to the fishing industry, we determine that they are limited to a specific enterprise or industry, or group of enterprises or industries, and are countervailable. To calculate the benefit from this program, because information was unavailable on expenditures during the review period or for prior years, we used, as best information available, the total value of grants reported in the 1984 P.E.I. Annual Report as representing the amount disbursed during the review period. Dividing that amount by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.001 percent *ad valorem*.

30 Quebec: Vessel Construction Assistance Program (VCAP)

Under the direction of the Ministry of Agriculture, Fisheries and Food (MAFF), the government of Quebec operates the VCAP. This program, which was established in 1972 and originally administered by the Ministry of Industry, Commerce and Tourism, provides grants to commercial fishermen to reimburse a portion of the cost of a boat. Only boats measuring between 25 and 35 feet that are constructed with materials from Quebec and equipped with storage containers which correspond to the regulations of the Quebec Standards Bureau qualify under the VCAP. If the commercial fisherman sells the boat within five years without MAFF authorization, a prorated portion of the grant must be repaid.

Because grants under this program are available only for vessels used by commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. To calculate the benefit from this program, we allocated the grants received in fiscal years 1981 through 1985 over 18 years. Grants were first provided under this program in 1972. However, no information on the grants bestowed from 1972 through 1980 was available. Therefore, for each of those years, we used, as best information available, the average value of the grants bestowed during the period 1981–1985, and allocated those grants over 18 years as well. Applying the grant methodology and dividing by f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subisdy of 0.028 percent *ad valorem*.

31. Quebec: Gear Subsidy Program (GSP)

Under the direction of MAFF, the government of Quebec operates the GSP. This program, which was established in 1972 and originally administered by the Ministry of Industry, Commerce and Tourism, provides grants to commercial fishermen to reimburse 25 percent of the purchase price of hooks, leaders, lines and metallic shellfish traps. To be eligible for this program, fishermen must purchase materials from Quebec suppliers for the construction of the gear.

Because benefits under this program are available only for gear used by commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable. To calculate the benefit from this program, we allocated the grants received in fiscal years 1981 through 1985 over 12 years. Grants were first provided under this program in 1972. However, no information on the grants bestowed from 1972 through 1980 was available. Therefore, for each of those years, we used, as best information available, the average value of the grants bestowed during fiscal years 1981–1982 as representing the value of grants bestowed from 1972 through 1980, and allocated those grants over 12 years as well. We used the average for only these two years because in 1982 certain gear purchases became ineligible. Grants in years prior to 1980 are more accurately reflected by the average for fiscal years 1981–1982. Applying the grant methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.041 percent *ad valorem*.

32. Quebec: Insurance Premium Subsidy Program (IPSP)

Under the direction of MAFF, the government of Quebec operates the IPSP. This program, established in 1981, provides reimbursements to eligible participants equal to 50 percent of the cost of fishing vessel insurance. Benefits are available to professional harvesters who own fishing vessels and to fishing corporations whose members conduct fishing operations. If the harvester transfers or sells the boat or if the insurance is prematurely cancelled, a prorated portion of the grant must be repaid to MAFF.

Respondents contend that benefits provided under the IPSP do not constitute countervailable benefits because there is no preferential treatment for the fishing industry. They claim that the fishing industry is considered just one of the "agro-alimentary" industries overseen by MAFF, and that programs providing similar benefits are available for 58 crops.

The programs referred to by the respondents are administered by the Regie des Assurances Agricoles du Quebec (the Regie), in accordance with the Crop Insurance Act. Under that Act, the government of Quebec may issue regulations establishing insurance schemes for mixed farming and commercial crops. Funding for the insurance schemes is provided jointly by the government of Quebec and the participating farmers on an equal basis. Only those crops for which specific regulations have been enacted are covered by an insurance scheme run by the Regie; coverage is not available for all crops, nor is it available to other industries in the agriculture sector (*e.g.*, livestock). By definition, benefits under the Crop Insurance Act are limited to a specific group of industries.

Similarly, under the IPSP, benefits are limited exclusively ot the fishing industry. There is no evidence that this program is part of a broader government of Quebec policy to provide comparable benefits to all industries in the "agro-industrial" sector. Therefore, we determine this program to be limited to a specific enterprise or industry, or group of enterprises or industries, and to be countervailable. Dividing the value of the premium reimbursements to the fishing industry during the review period by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.043 percent *ad valorem*.

33. Quebec: Large Vessel Construction Program

Based on information contained in the Annual Report of the Ministry of Agriculture, Fisheries and Food, the government of Quebec also provides grants for the construction of boats measuring more than 35 feet. Originally, grants covered 35 percent of construction costs, but in 1984 individual grants were increased to 50 percent of costs. A commercial fisherman is required to demonstrate that 75 percent of earned income derives from fishing and undertake to use the vessel in fishing operations for a minimum of five years. Because grants under this program are provided only to commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

According to our grant methodology, we would normally take financial data for the last 18 years, the average useful life of boats, and allocate grants in each year over an 18 year period. However, because financial data were unavailable for years other than 1983–84, we used, as best information available, the total grants disbursed in 1983–84 as representing the amount disbursed during the review period, and expensed the full amount to the year of receipt. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.144 percent *ad valorem*.

34. Quebec: Loans From the Ministry of Agriculture, Fisheries and Food

Based on information contained in the Annual Report for the Ministry of Agriculture, Fisheries and Food, the government of Quebec offers loans to commercial fishermen for the construction of new vessels, repair of used vessels and equipment, and consolidation of debt. Because benefits under this program are available only to commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries. In addition, because information was not provided on the terms or interest rates of these loans, we also determine that these loans were provided on terms inconsistent with commercial considerations, and are, therefore, countervailable.

No financial data were available on the amounts of loans disbursed in any year other than 1983–84. Therefore, to calculate the benefit from this program, we used, as best information available, the amount of funds disbursed in 1983–84 as representing a short-term interest-free loan provided during the review period. We used as our benchmark the 90-day prime corporate paper rate. Dividing the benefit by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.045 percent *ad valorem*.

35. Quebec: Grants for Engine Purchases

Based on information contained in the Annual Report for the Ministry of Agriculture, Fisheries and Food, the government of Quebec provides grants to commercial fishermen for the purchase of engines for boats measuring less than 35 feet. Because grants under this program are provided only to commercial fishermen, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

Using our grant methodology, we would normally take financial data for the last 12 years, the average useful life of equipment, and allocate grants in each year over a 12 year period. However, because financial data were unavailable for years other than 1983–84, we used, as best information available, the total grants disbursed in 1983–84 as representing the amount disbursed during the review period, and expensed the full amount to the review period. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.021 percent *ad valorem*.

36. Quebec: Grants for Fish Transport and Seafood Processing Tanks

Based on information contained in the Annual Report for the Ministry of Agriculture, Fisheries and Food, the government of Quebec provides financial assistance for fish transport and the purchase of processing tanks. Grants over 50 percent of the acquisition costs of approved tanks and reservoirs. Because this program provides benefits exclusively to the fishing industry, we determine that it is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

According to our grant methodology, we would normally take financial data for the last 12 years, the average useful life of equipment, and allocate grants in each year over a 12 year period. However, because financial data were unavailable for years over than 1983–84, we used, as best information available, the total grants disbursed under this program in 1983–84 as representing the amount disbursed during the review period. We then expensed the full amount to the review period. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.029 percent *ad valorem*.

37. Quebec: Grants to Processing Enterprises for Capital Equipment

Based on information contained in the Annual Report for the Ministry of Agriculture, Fisheries and Food, we found that the government of Quebec will assume 20 percent of the cost of eligible capital equipment for processing firms wishing to modernize their plants in conformance with construction and operation standards set forth in the Agricultural, Marine and Food Products Act. Because these grants are available only to the fishing industry, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries, and is countervailable.

According to our grant methodology, we would normally take financial data for the last 12 years, the average useful life of equipment, and allocate grants in each year over a 12 year period. However, because financial data were unavailable for years other than 1983–84, we used, as best information available, the total grants disbursed under this program in 1983–84 as representing the amount disbursed during the review period and expensed the full amount to the review period. Applying this methodology and dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.109 percent *ad valorem*.

38. Quebec: Ice-Making and Fish Chilling Assistance

Based on information contained in the Annual Report for the Ministry of Agriculture, Fisheries and Food, we found that the government of Quebec operates ice-making equipment and cold-storage warehouses to provide commercial fishermen and processing firms with an inexpensive source of fish chilling operations. The government produces ice which the annual report states is then sold to processing plants at a price equal to its production costs, and to Quebec fishermen at a price equal to 53 percent of production costs. It also offers space in cold storage warehouses operated by the Equipment Management Division to processing firms during temporary shortfalls in commercial cold storage space.

Because these benefits are provided only to the fishing industry, we determine that this program is limited to a specific enterprise or industry, or group of enterprises or industries. In addition, because information was not provided on rates charged for similar services, we find that these goods and services are provided at preferential rates, and are countervailable. To calculate the benefit from this program, we used, as best information available, the cost of the government of providing these services as representing the amount of the benefit. Furthermore, because financial data were unavailable for years other than 1983–84, we used expenditures in 1983–84 as representing expenditures during the review period. We expensed this amount to the review period. Dividing by the f.o.b. value of production in Atlantic Canada of fish and shellfish during the review period, we calculated an estimated net subsidy of 0.077 percent *ad valorem*.

III. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to producers or exporters in Canada of fresh Atlantic groundfish under the following programs:

A. Federal Programs

1. Atlantic Fisheries Management Program

The Atlantic Fisheries Management Program is a federal program for the conservation and restoration of Canada's fisheries resources. The program's functions include: setting total allowable catches, licensing fisheries and vessels, administering biological conservation measures, managing fleet quotas, performing research and surveillance, and monitoring domestic and foreign fleets. The program does not provide any financial assistance to the groundfish industry. Resource management, like the government's regulation of other business activities, is a legitimate government function undertaken to ensure the orderly conduct of business in the general public interest.

Research under the program falls into three general categories: resource assessment, habitat assessment, and aquaculture and resource development. The results of the research are published in publicly available technical and scientific journals.

Because no financial assistance is provided under the program, the research results are publicly available, and the research is not targeted to assist a particular industry, we determine that the program is not countervailable.

2. DFO Marketing Intelligence and Industry Services Branch

As previously discussed in section I.A.3., the Marketing Intelligence and Industry Services Brandh (MIIS) is part of the DFO's Marketing Directorate. MIIS provides market analyses, market research and forecasts and policy advice to DFO management. Its reports are used by the DFO, as well as other government agencies, industry, universities, international organizations, bankers, and the general public. Because MIIS provides no financial assistance to the groundfish industry and because it market reports are publicly available, we determine that no countervailable benefits are provided under MIIS.

3. Enterprise Development Program (EDP)

EDP, which was established in 1977 and terminated in 1983, was administered by the Federal Department of Industry, Trade and Commerce. The purpose of EDP was to increase productivity in the manufacturing and processing sectors by encouraging innovations in the production process. EDP provided loans and grants to manufacturers (individuals, firms, or corporations engaged in a manufacturing or processing activity) and term loan insurance to banks lending to manufacturers or processors.

The groundfish industry received both grants and term loan insurance, but no loans. We verified that term loan insurance and grants provided under EDP were not limited to a specific enterprise or industry, or group of enterprises or industries. Therefore, we determine that assistance given to the groundfish industry under this program is not countervailable.

4. Section 146 of the Unemployment Insurance Act

Under the Unemployment Insurance Act, unemployment insurance is provided to all individuals working under a contract of service. Section 146 of that Act authorizes the Canada Employment and Immigration Commission to operate and establish a scheme of unemployment insurance for self-employed fishermen. Fishermen that work under a contract of service are covered under the general provisions of the Act.

Part V of the Unemployment Regulations provides the regulations covering self-employed fishermen (the Fishermen's Regulations). Under the Fishermen's Regulations, the buyer of the catch is considered the employer of the fisherman. All the provisions of the Act and the general regulations apply to self-employed fishermen except where modified by the Fishermen's Regulations.

In order for the self-employed fishermen's unemployment insurance program to be deemed a subsidy, it is necessary that the insurance be provided on preferential terms to a specific enterprise or industry, or group of enterprises or industries. We find that self-employed fishermen do not receive unemployment insurance on preferential terms.

The employee and employer premiums (as a percentage of earnings) paid under the general unemployment program and the program for self-employed fishermen are the same. The number of weeks a self-employed fisherman must work and the number of weeks a worker under the general unemployment program must work to qualify for unemployment insurance is the same. The benefit levels for each are set at 60 percent of their average insurable earnings, although the self-employed fisherman may take the average of his ten highest earning weeks if he has 15 or more weeks of fishing. The number of initial benefit weeks is calculated on a one-to-one basis for workers covered under the general unemployment program; for every one week of employment the worker qualifies for one week of benefits. The number of initial benefit weeks for self-employed fishermen is calculated on a six to five ratio; *i.e.*, for every six weeks of employment the self-employed fisherman earns five weeks unemployment insurance. The number of extended benefit weeks available to the self-employed fisherman and a worker covered under the general unemployment program is the same, although a self-employed fisherman is not eligible to receive benefits between May 15th and November 1st.

Thus, while the terms of unemployment insurance for self-employed fishermen and general contract workers are similar in many aspects, they are not identical. In those areas where they differ, some terms appear to benefit contract workers vis-a-vis self-employed fishermen (calculation of initial benefit weeks and the duration of extended benefits), whereas the use of the ten highest earnings weeks for calculating the level of benefits appears to benefit self-employed fishermen vis-a-vis contract workers.

Comparing the terms of unemployment insurance provided under the Fishermen's Regulations for self-employed fishermen to those provided under the Unemployment Insurance Act and Regulations, we determine that unemployment insurance provided to self-employed fishermen is not provided on preferential terms and therefore is not countervailable.

5. Import Duty Remission Under the Machinery Program

Petition alleges that fishermen and processors have import duties remitted on machinery not available from Canadian Manufacturers, and that this program may be administered in such a manner as to *de facto* limit the program to a specific industry or group of industries. This program is governed by the Financial Administration Act and was established in 1968. The Machinery Program covers machines such as construction equipment, metal working machinery, and general purpose machinery such as hydraulic pumps, and pulp, paper and plastics machinery. The remission of duty is authorized by the Governor-in-Council on the recommendation of the Minister of Regional Industrial Expansion. The Machinery and Equipment Advisory Board (MEAB) advises the Minister on the eligibility of imported machines for remission of duty. To qualify for approval, the remission of duty must be in the public interest and reasonably equivalent machinery must not be available in Canada. We verified that only applications for machinery available for production in Canada were rejected.

Since all applications covering machinery not available in Canada were approved, we found no evidence of governmental discretion in the administration of this program and, therefore, no *de facto* limitation on use of the program. Since the types of machinery eligible for remission of import duties are available for use to a wide range of industries, we determine that this program is not limited to a specific enterprise or industry, or group of enterprises or industries, and therefore is not countervailable.

6. Fishing Vessel Insurance Plan

Established in 1953 and administered by the Economic Programs Branch of the DFO, the Fishing Vessel Insurance Plan insures commercial fishermen against abnormal losses. The plan covers losses or damage caused by perils at sea, accidents in loading, discharging or handling cargo, accidents occurring on dry-docks, explosions on shipboard, and the negligence of master, officers, crew or pilots, provided that any loss or damage has not resulted from lack of due diligence.

The purpose of this program is to ensure that marine insurance is available throughout Canada. Although the DFO offers insurance in remote areas of Atlantic Canada where certain private insurers elect not to operate due to the relatively high expenses associated with maintaining offices in inaccessible regions. The DFO is able to avoid these expenses because there is already some form of DFO presence in most regions (for licensing or inspection services). The premium rates are established as a percentage of the appraised and insured value of the hull and machinery. They are adjusted annually by taking the sum of indemnities paid in the preceding five-year period and dividing by the sum of the total insured value at the end of each of the preceding five years.

This program was preliminarily determined to be countervailable because information had not been provided on premium rates charged for identical or similar insurance.

At verification, we found that FVIP premiums are comparable to premiums charged by private insurers and in many instances, are actually higher. In recent years, many commercial fishermen have switched from the FVIP to private insurers to obtain lower premium rates. Therefore, we determine that the FVIP does not offer insurance at preferential rates and, consequently, does not confer a countervailable benefit.

7. Federal Assistance for Bait Services Program

The Bait Services Program was established by the Dominion of Newfoundland before it became a province of Canada in 1949. The federal government agreed to take over this program as a condition of Newfoundland becoming part of Canada. The program is presently administered by the federal DFO. The Bait Services program provides commercial fishermen with a source of bait independent of the local processors. We verified that the Bait Service sells bait at prices identical to those charged by private suppliers to unrelated purchasers. Since the prices charged by the government are not preferential when compared to the prices charged by private suppliers to unrelated purchasers, we determine that this program is not countervailable.

B. Provincial Programs

1. New Brunswick: Marketing and Promotion Activities

The New Brunswick Department of Commerce and Technology (DCT) offers three separate programs to small, newly-established companies to assist in their development, marketing, and export activities. These programs are Trade Services, Marketing Services, and Production Services. Technical/Marketing Assistance was eliminated at the end of 1980 and its functions have been absorbed by the production services section. There are no provincial rules or regulations that specifically provide for the various marketing and export programs; all are activities performed by the Department of Commerce and Technology under the direction of its Minister and the Deputy Administrator of the Department. Funding for the programs is authorized by the Financial Administration Act of October 1984.

Participation in these programs is voluntary and open to all small, newly-established companies in New Brunswick. None of the three programs is designed to deal exclusively with export promotion and, of the three programs available, the only one utilized by producers of groundfish was Trade Services.

These programs provide assistance in attending trade shows and missions which might be of use to manufacturers and processors in the province. These activities are available for both export and domestic marketing. The DCT shares the costs on a 50–50 basis for attending a trade show if the manufacturer can show that it is financially solvent, has the production capability to supply a product, and will follow up on any trade leads uncovered. The manufacturer or processor must be a resident of the province of New Brunswick. In fiscal year 1985, less than four percent of the total monies allocated for Trade Services was expended on the promotion of the subject merchandise. The remaining funds were utilized by various other industries within the province.

The Marketing Services section makes marketing professionals available to help companies establish proper marketing techniques. It also provides financial assistance for expanding marketing programs. The program is available throughout the province to all small, newly-established companies who may need marketing assistance. DCT marketing professionals work with the company in implementing a proper marketing scheme and, if financial assistance is needed, provide funds on a 50–50 cost sharing basis to expand into new marketing projects.

Production Services are available to all small, newly-established companies to provide technical advice and assistance in solving problems associated with the development of their products. Although most assistance was of an advisory nature, some financial assistance was also provided on a 50–50 cost sharing basis.

Because the services performed by the DCT are available to all industries within the province, for both domestic and export promotion, we determine that receipt of assistance is not contingent on exportation, nor is it limited to a specific enterprise or industry, or group of enterprises or industries. Therefore, we find that New Brunswick marketing and promotion activities are not countervailable.

2. New Brunswick: Training Services

Based on information contained in the New Brunswick Department of Fisheries Annual Report, we found that the government of New Brunswick operates the Training Services Program. Courses for commercial fishermen include electronic navigation, refrigeration, hydraulics, engineering and various levels of fishermen competency. Other courses are offered in conjunction with Transport Canada to provide certification in areas such as Ferry Steamship Master, Small Pleasure Craft Master and various levels of Engineering Competency. Assistance is also provided by the school to various groups organized throughout the province. Because the benefits under this program are not provided to a specific enterprise or industry, or group of enterprises or industries, we conclude that benefits under this program are not countervailable.

3. Newfoundland: Exemptions from Sales and Gasoline Taxes

Under the direction of the Tax Administration Branch of the Ministry of Finance, the government of Newfoundland offers exemptions from the application of the Retail Sales Tax Act and the Gas Tax Act, both enacted in 1978. The sales tax applies a flat rate of 12 percent on the consumption of tangible personal property. Its purpose is to tax only the final consumer of retail products. Pursuant to this purpose, the regulations enumerate specific exemptions in all areas of commercial production, including production of primary products: agriculture, fish, forestry, and minerals; and manufacturing and processing. Vessels or boats purchased by commercial fishermen, farm equipment and supplies, all productive capital equipment purchased for use in manufacturing, and all tangible personal property to be processed, fabricated, or manufactured for purpose of resale, are exempt.

The gas tax is an *ad valorem* tax based on 22 percent of the average retail price of fuel and is used to provide funds for highway repair. Exemptions apply to all uses of gas that are not related to the use of a motor vehicle on a public roadway. We verified that the gas tax exemptions are used by a broad spectrum of industries. Therefore, we determine that benefits provided under these programs are not limited to a specific enterprise or industry, or group of enterprises or industries, and are not countervailable.

4. Newfoundland: Newfoundland and Labrador Development Corporation (NLDC)

A 1972 agreement between the government of Newfoundland and the federal government created the NLDC as a crown corporation to promote small- and medium-size businesses by providing loans and equity investments to all commercial sectors. Until March 1984, the program received partial federal funding. Since then, it has been solely under provincial responsibility, although any operating losses are shared on an equal basis by Newfoundland and the federal government. Besides fishing, the NLDC has assisted enterprises in manufacturing, mining, forestry, agriculture, services, and tourism. Interest rates are established once a month at one percent or more above the cost of funds charged by the government to all crown corporations. The rate is fixed during the term of a loan. We verified that this rate is consistently higher than the prime rate charged by chartered banks. The maximum repayment period is 15 years, and is based on the average useful life of the asset. We verified that the dividend rate on equity investments is normally higher than the average market rate. The NLDC also offers business and technical information on an informal basis in response to anyone's inquiries.

Because a wide range of industries receive financing from the NLDC and because loans and equity investments are not provided on terms inconsistent with commercial considerations, we determine that this program meets neither of the two tests in section 771(5)(B)(i) of the Act, and is not countervailable.

5. Newfoundland: Rural Development Loan Program (RDLP)

Under the direction of the Rural Development Authority and pursuant to the Newfoundland Department of Rural Development Act of 1973, the government of Newfoundland operates the RDLP. The Rural Development Authority is comprised of three ministers: the Minister of Rural Development, the Minister of Forestry and Agriculture, and the Minister of Fisheries, as well as three to five other appointed members. The RDLP promotes the development of small industries and rural enterprises by providing loans to both emerging and existing businesses. "Rural" is interpreted to embrace all of Newfoundland including St. Johns, the capital of Newfoundland. Loans are at fixed interest rates for a maximum of $25,000. Maximum repayment periods are 15 years for buildings, ten years for new capital equipment, and three years for used equipment. Security is required for all loans. The regulations authorize loans for many purposes including the purchase and repair of equipment, the purchase, construction, and renovation of buildings, land purchases, and working capital needs. The only producers specifically excluded from the program are fish harvesters who already receive loans from the Fisheries Loan Board.

We verified that loans are provided to any industry in primary resource production, manufacturing, processing, services and tourism. Therefore, we determine that benefits provided under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, or to particular regions within the province and are not countervailable.

6. Newfoundland: Loan Deficiency Guarantee Program

The government of Newfoundland's Ministry of Finance, pursuant to the Crown Guarantee and Loan Act of 1973, has guaranteed short-term working capital loans to eligible fishing companies since 1977. We verified that under this program, guarantees have been provided to a variety of industries including fishing, mining, agriculture, pulpwood harvesting and sawmilling. All loans that are guaranteed must be secured, and a guarantee fee of between 0.5 and 1.0 percent is charged on the loans. Because the guarantees provided under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that they are not countervailable.

7. Newfoundland: Market Development Information Service

This service, offered by the Support services Branch of the Newfoundland Department of Fisheries, provides information on all aspects of the fishing industry to anyone who inquires. As such, we determine that the service provided under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, and is not countervailable.

8. Newfoundland: Construction of Fisheries Access Roads

Based on information contained in the Public Accounts for the Department of Fisheries, the government of Newfoundland offers grants to local fishermen's committees for the construction of access roads. The construction is usually undertaken by the Department of Transportation and Communication. All access roads constructed with government funding must be accessible to the public. Newfoundland's road network is not very extensive, so most new roads are necessary additions to the province's infrastructure. Because these roads are open to and used by the public and are used by more than a group of industries, we determine that assistance for road construction provided by the Department of Fisheries does not confer a countervailable benefit.

9. Newfoundland: Market and Product Development Program (MAPD)

Based on information contained in the Public Accounts for the Department of Development, we found that the government of Newfoundland since 1978, has offered grants to any Newfoundland manufacturer, processor, or consulting service to develop new market opportunities and new product lines. A grant may cover up to 50 percent of a project's total cost to a maximum of $50,000. We verified that a wide variety of industries have participated in this program. Therefore, we determine that benefits conferred under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, and are not countervailable.

10. Newfoundland: Rural Development Assistance Program (RDAP)

Based on information contained in the Public Accounts for the Department of Development, we found that the government of Newfoundland provides funds to municipalities in all areas of Newfoundland to undertake development projects which stimulate economic growth in the municipality and region. Grants are aimed at assessment and promotion of economic opportunities. "Rural" is interpreted to embrace all of Newfoundland, including St. Johns, the capital of the province. Because benefits conferred under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, or to particular regions within the province, we determine that they are not countervailable.

11. Newfoundland: Small Business Program

Based on information contained in the Public Accounts for the Department of Development, we found that the P. H. Gardiner Institute for Small Business Studies at the Memorial University of Newfoundland offers the services of its students to help small businesses in any industry prepare feasibility studies, financial statements, accounting systems, marketing studies and other related business activities. The program is designed to assist those small businesses which need advice yet cannot afford commercial rates. Consequently, the only eligibility requirement is a demonstrated inability to pay. Because benefits conferred under this program are not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that they are not countervailable.

IV. Programs Determined Not To Be Used

Based on our verification, we determine that producers or exporters in Canada of certain fresh Atlantic groundfish did not use the following programs:

A. Federal Programs

1. Community-Based Industrial Adjustment Program (CIAP)

CIAP was established in 1981 and terminated in 1984. The program was one part of the Industrial and Labor Adjustment Program which was administered by the Department of Industry, Trade and Commerce. The objective of CIAP was to encourage businesses to undertake capital projects in certain designated communities affected by serious industrial dislocations. CIAP financial assistance took the form of grants of up to 75 percent of the consulting costs associated with CIAP projects or loans to cover capital costs and preproduction expenses.

B. Joint Federal-Provincial Programs

1. Fisheries Development Program for Coastal Labrador

This program, which is administered jointly by DRIE and DFO, began in 1981 and is scheduled to terminate in 1987. Its purpose is to improve the quality of fish landed and increase the efficiency of fish processors within the coastal Labrador region of the province of Newfoundland. We verified that no products subject to this investigation are exported from coastal Labrador.

C. Provincial Programs

1. New Brunswick Fuel Subsidy for Fishermen

Based on information contained in the New Brunswick Department of Fisheries 1983 Annual Report, we found that the government of New Brunswick operated the Fuel Subsidy Program. This special program provided five cents per litre to commercial fishermen for fuel used in their fishing vessels during the 1982 fishing season. We found no evidence of any government expenditures under this program subsequent to fiscal year 1983.

2. New Brunswick: Winterization of Fish Plants Program

In 1979, the Department of Fisheries provided a grant to a processor of herring to winterize its plant. We verified that no grants for that purpose were provided to processors of fresh Atlantic groundfish subject to this investigation.

3. Newfoundland: Secondary Processing Interest Subsidy Program (SPISP)

Under the direction of the Department of Fisheries, the government of Newfoundland operates the SPISP. This program was initiated in 1978 to provide interest subsidies to secondary processors of fish for the purchase of machinery and equipment. The program is designed to encourage increased production of fish products processed beyond the whole fish and filleting stage of processing. We verified that no fresh fish producers received benefits under this program during the review period.

4. Newfoundland: Ocean Industries Development Program (OIDP)

Based on information contained in the Public Accounts for the Department of Development, we found that the government of Newfoundland provides funding for the development of research and technology, marketing strategies, and manufacturing and processing techniques in ocean-related industries. The Ocean Industry Development Subsidiary Agreement between the governments of Newfoundland and Canada authorized initiation of the program in 1984. The Department of Development has steered most of the funding into industries which are currently developing the Hibernia offshore oil fields. We verified that no fishing or processing operations have received benefits under this program.

5. Newfoundland: Ocean Industry Capital Assistance Program (OICAP)

Based on information contained in the Public Accounts for the Department of Development, we found that the government of Newfoundland provides assistance to ocean-related manufacturing and technical service industries. We verified that the eligibility requirements for OICAP specifically exclude firms in the primary products sector and that no fish harvesters or processors received benefits under the program.

6. Newfoundland: Newfoundland Oceans Research and Development Corporation (NORDCO)

Based on information contained in the Public Accounts for the Department of Development, we found that the government of Newfoundland offers assistance for research programs concerned with gathering intelligence related to ice and cold water technology. This program seeks to make the exploration and production of mineral resources more feasible by ameliorating the problems associated with ice and cold water. No benefits were provided to the producers of the products under investigation under this program.

7. Quebec: Tax Abatement Program (TAP)

Under the direction of the Fonds de Reliance Industrielle and in accordance with Chapter S-34 of the Act Respecting Fiscal Incentives to Industrial Development (Nov. 1980), the government of Quebec operates the TAP. This program is available to those manufacturing businesses not engaged in initial processing operations in a resource-based industry that are willing to make capital investments in one of two regional zones. These two zones embrace all of the province of Quebec except Montreal. It provides certificates allowing a firm to deduct from taxes payable 25 percent of the value of allowable capital investments, or a maximum of 50 percent of the year's income taxes due, up to a limit of $500,000. This program was terminated in 1981. However, firms participating in the program while it was in effect had the option to claim their earned tax credits during the five years following the issuance of the certificates. We verified that no producers of the subject merchandise claimed tax credits under this program on income tax returns filed during the review period.

8. Quebec: Aide a la Promotion des Exportations (APEX)

Under the direction of the Ministry of Foreign Trade, the government of Quebec operates the APEX. Established in 1972 by the Ministry of Industry, Commerce and Tourism, this program provides grants to cover partial expenses for new export market development programs and attendance at trade fairs. Export markets are defined as those outside the province of Quebec. We verified that benefits under this program were not provided to any exporters to the United States of the subject merchandise during the review period.

9. Quebec: Technological Assistance Service for Business Program (TASBP)

Under the direction of MAFF, the government of Quebec operates the TASBP. This service, which is available to all companies or individuals in industries related to the processing, distribution, and research and development of food products, provides financial assistance, up to 50 percent of total costs, for the development of new products and methods. This service also provides technological counselling on an informal basis to firms in all sections of the food industry. We verified that none of the merchandise subject to this investigation benefitted from financial assistance under this program during the review period.

10. Quebec: Societe de Developement Industriel (SDI) Expansion Program

Under this program, the government of Quebec provided grants as interest cost reimbursement to Quebec firms which increased direct exports by 20 percent over those of the previous years. As stated above, exports are defined as sales outside the province of Quebec. SDI would disburse grants over a five-year period to a participating exporter commensurate with its export performance. Although the program was terminated in 1981, payments are still made to those firms who entered the program in 1980 and 1981. We verified that no firms producing the subject merchandise received grants during the review period. SDI also operates three additional export assistance programs: 1) a consortium program, 2) a new market development program for firms seeking to sell outside the Province, and 3) an export financing program. We verified that no firms producing the subject merchandise received benefits under these programs.

V. Programs Determined Not To Exist

Based on our verification, we determine that the following programs do not exist:

1. New Brunswick: Fish Chilling Assistance Program

This is a program of the federal government. *See* section 1.A.3. of this notice.

2. Newfoundland: Bait Services Program

This is a program of the federal government. *See* section III.A.7. of this notice.

3. Newfoundland: Production Machinery and Processing Technology Program

We verified that this program, alleged by petitioner to provide financial and technical assistance for the design of plant layouts and the development and acquisition of machinery, is the same as the Secondary Processing Interest Subsidy Program. *See* section IV.C.2. of this notice.

4. P.E.I. Fish Chilling Assistance Program

This is a program of the federal government. *See* section I.A.3. of this notice.

5. P.E.I. Fishermen's Holding Unit Program

This is a program of the federal government. *See* section I.B.2. of this notice.

6. Quebec: Joint Federal-Provincial Development Program

This is a program of the federal government. *See* section I.B.4. of this notice.

Petitioner's Comments

Comment 1: Petitioner contends that the Department erred by selecting a short-term loan interest rate as the benchmark for FILP and loans provided by the New Brunswick Fisheries Development Board. Petitioner maintains that most of the loans provided under these programs are long-term and the appropriate benchmark is the long-term corporate bond rate.

DOC Position: The loans given under the two programs mentioned above are long-term variable rate loans. Therefore, the most accurate measure of the benefit to the recipient is obtained by comparing these loans to commercially available loans with variable interest rates. As we did not have long-term variable rate loans as benchmarks, we treated these loans as if they were short-term, one-year loans rolled over each year.

Comment 2: Petitioner contends that the benchmark selected by the Department in the preliminary determination fails to measure correctly the extent of the subsidy provided by the equity infusion into NSP. Petitioner maintains that, in the comparison of the government's rate of return to the rate of return on shares issued to Toronto-Dominion Bank, the Department overvalued the right of the government shares to a future stock dividend. Petitioner maintains that the right to a common stock dividend six years in the future entails a large risk factor not taken into account when current market price is used to value the anticipated return. Petitioner further maintains that the benchmark selected by the Department, the rate of return on stocks issued to Toronto-Dominion Bank, undervalues the rate of return required by a commercial investor. The Toronto-Dominion stock is an unusual, tax-exempt type of financing which does not meet the Department's criteria of a comparable commercial investment. Because the purchase by Toronto-Dominion was conditioned on the purchase by the government, it is not an accurate measure of what an investor would require without a concurrent purchase by the government. Finally, petitioner maintains that an equity infusion of $105 million into FPIL, which was approved by the federal government in October 1985, should be taken into account by the Department.

DOC Position: Although petitioner maintains that the right to a stock dividend in the future entails a large risk factor in comparison to the current value of the stock, no methodology for the measurement of their risk factor or of its effect on the value of the stock dividend is suggested. Indeed, any adjustment for the additional risk would be difficult to estimate and inexact, and if a long-term investment outlook is assumed, would not be large. In our determination of a benchmark, we took the spread between a taxed bond and a tax-free bond and added that onto the return of the Toronto-Dominion difficulty preferred shares, to account for the fact that the term-difficulty preferred shares are tax exempt. With this modification, we believe that the term-difficulty preferred shares reflect the most accurate benchmark of a comparable commercial investment in this case.

We did not examine the issue of an additional equity infusion into FPIL because the infusion took place after the review period.

Comment 3: Petitioner contends that the use of an *ad valorem* subsidy rate improperly gauges the real benefit provided to the fresh groundfish industry in two ways: (1) The estimated sales value provided in the response overstates the value of landings of fresh whole fish, and (2) the allocation of benefits to the groundfish sector over production of all fish and shellfish distorts the subsidy conferred on the production of the subject merchandise. In addition, petition contends that the use of a per pound net subsidy calculation conforms with Department policy and avoids valuation difficulties (See *Lamb Meat from New Zealand,* 50 Fed. Reg. 37708 (*Lamb*) and *Swine,* supra). Finally, they argue that the use of national data understates the subsidy to the Atlantic Canada groundfish industry, since Atlantic Canada has received disproportionately higher benefits than the nation as a whole.

DOC Position: At verification, we learned that what we referred to in our preliminary decision as the value of landings was in fact the f.o.b. value of production. While mislabeled in our preliminary determination, we believe that this is the correct value over which benefits should be allocated. As stated in the "Scope of Investigation" section of this notice, the product designated as "fresh whole fish" goes through the production line where the fish can be processed by removal of heads, viscera, fins, or any combination thereof. Also, by definition, fillets (including fish steaks) are processed. Therefore, we believe that the value of production, and not the value of landings (*i.e.*, the value of fish as it is landed off the vessel) is the proper value over which to allocate benefits.

With respect to the use of a per pound subsidy rate, the facts in *Lamb* and *Swine* were quite different from those in this case. In the two cited cases, we were dealing with coverting one animal (hogs or lamb) into one product (pork meat or lamb meat). Conversion from animal to product was very simple. In this case, we are dealing with a variety of species each having a different yield, being processed into numerous fish products.

In order to assess duties accurately on a per pound basis, we would have to calculate a separate subsidy rate for each species and for each product thereof. Information on the record does not enable us to do so. Regarding petitioner's contention on valuation difficulties, we have been informed by U.S. Customs that collecting cash deposits on an *ad valorem* basis can be done.

Finally, with respect to the allocation of benefits over the appropriate denominator, because we are dealing with data, we have allocated benefits over the appropriate production value of the group receiving benefits. If we look at a program providing benefits to the Atlantic fishing industry, for example, it is correct to divide by the f.o.b. value of production for Atlantic Canada. In those cases where, in the preliminary determination, benefits to one group were allocated over the value of production of a different group, corrections have been made and are reflected in this determination.

Comment 4: Petitioner contends that Canada's seasonal unemployment program for self-employed fishermen is countervailable on the grounds that it bestows a benefit upon the production of groundfish and that the subsidy is specifically available to the Canadian fishing industry. Petitioner argues that: (1) The self-employed fishermen's program constitutes a specific statutory exception to Canada's unemployment insurance act; (2) the self-employed fishermen's provisions are inconsistent with the insurance scheme provided under the general act; (3) the unique features of the program, including the method by which it is financed leave no doubt that the program is separate; and (4) the benefit provider under the program is disproportionate.

DOC Position: Unemployment insurance, like social security or welfare, is the government provision of a service. Since unemployment insurance is the provision of a service by the government of Canada, we must determine whether the provision of unemployment insurance to self-employed fishermen under the Fishermen's Regulations is provided on preferential terms. When we compared the system of unemployment insurance for self-employed fishermen to the general unemployment system, we determined that the government of Canada did not extend unemployment insurance to self-employed fishermen on preferential terms. (*See* section III.A.4. of this notice).

The purpose of unemployment insurance is to provide benefits to workers who are unemployed. We, therefore, realize that workers in certain industries such as those working in seasonal or cyclical industries, will receive a higher ratio of return (in terms of benefits received to premiums paid) than the average worker who remains fully employed throughout the year. The government does not extend preferential terms to the provision of unemployment insurance. Self-employed fishermen make premium payments at the same rate when employed and receive benefits on the same general terms when unemployed as to participants in the general unemployment insurance program in Canada.

Comment 5: Petitioner contends that under the Small Craft Harbours program benefits provided to improve infrastructure are countervailable because the infrastructure is used almost exclusively by fishermen and fish processors. Further, petitioner contends that small craft harbors are not part of Canada's transportation infrastructure. Petitioner contends that the program benefits two specific industries, commercial fishing and recreational boating, and that activities such as the construction and maintenance of wharves, gear storage facilities and power outlets are not inherently governmental activities. Finally, petitioner argues that the facilities are not made available on equal terms to any potential user, but rather, that licensed Canadian commercial fishing vessels are given preferential rates for services such as berthage at government-owned docks and are provided a countervailable subsidy.

DOC Position: To determine whether the provision of infrastructure provides a countervailable subsidy, we must determine whether (1) the government limits who can move into the area where the infrastructure has been built; (2) the infrastructure is used by more than a specific enterprise or industry, or group of enterprises or industries; and (3) industries have equal access to, or receive benefits from the infrastructure on the basis of neutral criteria. We also stated in *Carbon Steel Wire Rod from Saudi Arabia.* (50 FR 4206) that where limitations on use do not result from government activities, but instead result from the inherent characteristics of the good or service being provided, the government actions do not confer a countervailable benefit.

The government of Canada is responsible for the administration and operation of all the harbors in the country. In 1973, the administration of the smaller harbors was moved to the jurisdiction of the Small Craft Harbours Directorate. No government limitation has been placed on the use of the harbors. Users of the harbors include fishermen, recreational boaters, commercial transport vessels, coastal boats, ferries, seaplanes, tourists, and boats and ships seeking shelter from storms. We therefore find that the small craft harbors are used by more than a specific industry or group of industries and that the only limitation on the use of these harbors is due to the inherent characteristics of the facilities. However, we do find the program to be countervailable, to the extent that commercial fishing vessels are provided with preferential rates for harbor services.

Comment 6: Petitioner maintains that the Atlantic Fisheries Management Program underwrites extensively research projects that provide direct and indirect benefits to the fishing industry. Petitioner argues that the basis for DOC's preliminary determination, that the research results under the program are publicly available, ignores the express holding of the Court of International Trade in *Agrexco Agricultural Export Co., Ltd.* v. *United States (Agrexco).*

DOC Position: In *Agrexco,* the court stated that it was immaterial whether government research was disseminated to all groups, in determining whether a subsidy was provided. Instead, the court stated that Commerce should determine whether the research and development is targeted to assist a particular industry. We believe that our determination that DFO research is not countervailable, does not conflict with *Agrexco.*

Much of DFO research is done in support of Canada's international fishing responsibilities, negotiations, and agreements. Other research is done to support and to provide advice on domestic fishing and marine policy. A review of the research conducted, sponsored, and published by DFO includes such areas as "Resource Prospects for Canada's Atlantic Fishing 1985–1990," "Larval Crab (Decapoda: Brachyura) Zoeas and Megalopas of the Scotia Shelf," and "Analysis of Lake and Drainage Area Counts and Measures for Selected Watersheds Across Ontario's Shield Region." We do not believe that the scope of research conducted by DFO is targeted to assist a particular industry.

Comment 8: Petitioner maintains that the federal Bait Services Program is not run on a commercial basis, because the federal government expends substantial sums toward the program's annual operating expenses in order to keep the program afloat. Petitioner argues that the absorption of such operating losses proves that provision of bait is at a preferential price.

DOC Position: For the provision of a government good or service to be countervailable, it must be provided on preferential terms. To determine if this program provides bait at preferential prices, we compared prices of bait sold under the program with the price of bait charged by commercial bait suppliers. We verified that the price charged under the Bait Services Program is the same as that charged by commercial bait suppliers.

Respondents' Comments

Comment 1: Respondents argue that if a grant program is in existence for more than one year, grants under the program should be considered "recurring" and the grant amount expensed in the year of receipt. They further contend that if the estimated net subsidy for an individual program is *de minimis* the benefits under the program must be expensed in the year of receipt.

DOC Position: We disagree. Simply because a program provides grants to different recipients in more than one year does not make the grants given under the program "recurring." Recurring benefits are benefits which the *same* recipient can participate receiving year after year. Such benefits are expensed in the year of receipt.

The *de minimis* threshold is applicable only after the estimated net subsidy rates for all programs are added together. Each program is not required to cross the *de minimis* threshold. We established this test to ensure that countervailable grants which could be *de minimis* in a given year if allocated over time, and thus, could lead to a negative determination, would be countervailed.

Comment 2: Respondents contend that the federal FILP and numerous provincial fishery loan and loan guarantee programs are not countervailable because the relevant government operates loan and loan guarantee programs for farmers or small businessmen on comparable terms. They further contend that there is evidence that the farm and fishery loan programs are linked in their genesis and continuing operation, and, therefore, the government has made loans and loan guarantees available to a wide range of industries. Respondents further contend that if we find the fishing loan and loan guarantee program to be countervailable, the appropriate benchmarks should be those charged under the farm program.

DOC Position: We have determined that the fishery laon and loan guarantee programs are countervailable. On a case-by-case analysis of interest rates, administration of funds, evidence of government policy to treat industries equally, and the purpose of the program as stated in enabling legislation, we have concluded that the fishery loan programs are not integrally linked with other loan programs available to other sectors or industries. Furthermore, although other government loan programs may exist for the agricultural sector, these programs are not an alternative source of funds for fishermen. Therefore, we have used a commercial rate of interest as the benchmark because it is most representative of what a fisherman would otherwise have to pay for a loan in Canada.

Comment 3: Respondents argue that benefits provided under the IRDP are not countervailable because the designation of regions for benefits is based on neutral economic criteria. Respondents cite *Certain Steel Products from the Federal Republic of Germany,* (47 FR 39345) (*German Steel*) to support their position. Respondents also argue that IRDP benefits are provided to encourage economic development and expansion in all regions of Canada, and are provided to a wide variety of industries in every province in Canada.

DOC Position: We find no merit in the argument that according to our past determinations the provision of regional benefits based on neutral criteria is not countervailable. In our *German Steel* determination, assistance provided as part of a national policy to relieve unemployment was provided on identical terms across Germany; regional designations were merely for administrative convenience. Therefore, we did not find this program to be a regional subsidy. IRDP provides grants, in order to encourage economic development and expansion, to different regions at different funding levels according to the tier designation of the region. The level of funding available to an eligible applicant is determined by geographic region. Thus, the region an applicant is in is determinative of the level of assistance and not simply an administrative convenience.

Comment 4: Respondents contend that, because RDIP provides grants to industries located throughout most of Canada, the Department erroneously concluded that development incentives provided under RDIP are limited to a specific group of enterprises or industries. Furthermore, respondents argue that section 771(5) of the Act does not support a regionality test, and that such a test should not be used to determine the existence of subsidies in this investigation.

DOC Position: We have consistently held that benefits provided on a regional basis are, by their very nature, provided to a specific group of enterprises or industries. In *Certain Softwood Products from Canada,* (48 FR 24159), we found RDIP to be countervailable because the designation of areas eligible for assistance was based on administrative discretion. Therefore, we found RDIP benefits limited to companies located within specific regions. We disagree with respondents' contention that the Department erred by determining RDIP countervailable, and we reaffirm the decision made in the above-referenced determination.

Comment 5: Respondents assert that the ITC program is a boardly-based tax incentive available to all taxpayers in Canada and that ITCs over 7 percent are not limited to specific regions. They claim that a taxpayer anywhere in Canada or abroad can make use of ITCs over 7 percent and that the benefit bestowed accrues to the taxpayer irrespective of where the investment is located. Thus, they claim there is no regional targeting under the ITC. Respondents also claim that due to the interaction between ITCs and the depreciation system in Canada, the net benefit to the taxpayer claiming an ITC may not equal the full amount of the credit.

DOC Position: Although the taxpayer who claims an ITC at a rate above seven percent need not be located in a particular region, the acquired asset used as a basis for claiming an ITC must be used in a particular region. The Canadian Income Tax Act clearly requires that to claim an ITC on an asset, at a rate higher than seven percent, the asset must be used in a prescribed region. Therefore, the higher ITC rates are limited to a group of enterprises or industries which use assets in certain regions. Thus, the higher ITC rates are countervailable.

While it may be true that all taxpayers in Canada may be benefitting from ITCs (as tax shelters, for example), it is also very likely that the regions where higher ITC rates are available are also benefitting from higher levels of investment due to the ITC rate structure which spurs investment in those regions.

Regarding the interaction between ITCs and the depreciation system in Canada, we recognize that the after tax benefit to the taxpayer may, in some cases, not equal the full amount of the credit. However, it is the Department's policy to disregard secondary tax effects on countervailable subsidies. Any offsets to a countervailable subsidy are strictly limited by section 771(6) of the Act.

Comment 6: Respondents content that, because GDAs and ERDAs were signed with all the provinces, the agreements are not limited to a specific group of enterprises or industries. They argue that it is incorrect to require each subsidiary agreement to pass the specificity test. Moreover, they contend that because assistance is directed to infrastructure projects, virtually all sectors of the economy benefit.

DOC Position: The Department recognizes that all the provinces (with the exception of P.E.I. under the GDAs) have signed GDAs and ERDAs with the federal government. However, there are no GDA or ERDA programs *per se.* GDAs and ERDAs do not establish government programs, nor do they provide for the administration and funding of government programs. GDAs and ERDAs are merely legal agreements under which departments of the federal and provicial governments may cooperate in establishing and administering joint economic development programs in spheres of dual or conflicting jurisdiction. The implementation, administration and funding of industry-and regional-specific programs occur exclusively through subsidiary agreements. Therefore, we have decided that in determining whether subsidiary agreement programs are limited to a specific enterprise or industry, or group of enterprises or industries, the proper level of analysis is the subsidiary agreement.

Because we are analyzing each subsidiary agreement separately to determine if it meets the specificity test, it is irrelevant if some subsidiary agreements have funded infrastructure projects.

Comment 7: Respondents argue that ARDA assistance conferred benefits on a wide range of agriculture and rural economic development activities in Canada and is, consequently, generally available. They further contend that, because ARDA agreements are available to all provinces, assistance is not targeted to any particular region.

DOC Position: We disagree. See our discussion in Section I.B.1.

Comment 8: Respondents contend that, because the government utilized detailed financial analyses which forecasted encouraging future prospects for the industry in general, and for FPIL and NSP in particular, its opinion that these companies were equityworthy was commercially reasonable and its investment was consistent with commercial considerations. Respondents state that the companies' actual performance subsequent to the restructuring confirms the soundness of the government's investment. Furthermore, respondents contend that the fact that private investors purchased the same shares as the government attests to the investments' commercial reasonableness.

DOC Position: We disagree. See our discussion in Section I.A.11.

Comment 9: Respondents contend that the Department incorrectly used the 1977 Class Life Asset Depreciaiton Range System of the United States Internal Revenue Service (the IRS tables) rather than Canadian Income Tax Regulations in its determination of the allocation period used for calculating the benefits of non-recurring grants.

DOC Position: In the Subsidies Appendix we stated that although we would prefer to use the estimated economic useful life of an asset as the allocation period, the IRS tables, which reflect reasonable accounting useful like, provide the best practicable means of consistently determining useful life. If we were to use different countries' tax tables for different cases, we might find different subsidy margins due solely to the different periods of allocation. Rather than this anomalous result, we believe it is just as reasonable, and makes for more consistent results, to use the U.S. IRS tables to determine the period over which to allocate benefits. Our belief is reinforced in this case, where the Canadian Income Tax Regulations estimate the useful life of boats at seven years. Such a short estimated useful life for fishing vessels implies that the Canadian Income Tax Regulations may not be a true indicator of the estimated useful life of an asset in Canada but may serve other purposes (*i.e.*, providing for accelerated depreciation). During verification of various loan programs, we noted that the loan terms for fishing vessels ranged from 15 to 25 years. This indicates that the Canadian Income Tax Regulations may be understating the useful life of assets in the fishing industry. Therefore, we determine that the IRS tables provide the best practicable means of consistently and objectively determining useful life.

Comment 10: Respondents contend that the activities of the promotions branch of the DFO Marketing Directorate are legitimate government functions as identified in *Certain Fresh Cut Flowers from Mexico*, (49 FR 15007) (*Cut Flowers*). They also argue that the promotion branch's attendance at the Boston and Dallas seafood fairs was a courtesy gesture and not a marketing activity.

DOC Position: The *Cut Flowers* determination characterizes the organizing and directing of trade shows abroad as a legitimate government function. Specific product promotion, however, rather than constituting a legitimate government function, is the assumption of an industry's advertising cost by the government. At verification, we obtained a photograph of the Canadian display at the Boston Seafood fair. The photograph clearly shows that Canadian cod and haddock were advertised during the Boston fair. Such promotional activities are outside the scope of *Cut Flowers*.

Comment 11: Respondents maintain that assistance provided to improve fish chilling facilities prevents fish spoilage and ensures a minimum quality of fish, and, as such, constitutes a legitimate government function similar to the meat inspection service held not to be countervailable in *Lamb, supra*.

DOC Position: We agree that the maintenance of health and hygiene standards through government inspection services is a legitimate function of government. In this instance, however, the Canadian Federal and certain provincial governments are providing grants to the fishing industry to purchase capital equipment used in the production of the subject merchandise.

Comment 12: Respondents argue that if the Department calculates two subsidy rates, one for whole fish and a separate rate for fillets, it must apply the "upstream subsidy" analysis of section 771A of the Act to determine whether subsidies provided to harvesters of whole fish benefit the production of fillets.

DOC Position: Because we have calculated one rate for both whole fish and fillets, we need not consider this argument.

Comment 13: Respondents argue that subsidies provided to the fishing industry do not constitute benefits to a specific industry or group of industries ane are therefore, not countervailable. They contend that harvesters of fresh Atlantic groundfish make up a distinct industry which is included within the larger group of salt water fishing industries and that groundfish processors are also a separate industry within the group of fish products industries. Therefore, they contend that subsidies available to the group of fish products industries and salt water fishing industries are available to more than a specific group of enterprises or industries. Respondents also analogize the fishing industry to the agricultural sector, asserting that the fishing industry, similar to the agricultural sector, consists of more than a group of industries.

DOC Position: We disagree. The fisheries programs investigated conferred benefits on two specific industries, the salt water fishing industry and the seafood products industry, and as such, these programs were available to no more than a group of industries. Furthermore, the fishing industry is not analogous to the agricultural sector. The agricultural sector consists of a vast number of distinct inductries which, *inter alia*, produce: fruits, vegetables, grains, tree nuts, tobacco, nursery products, ornamental floriculture, dairy products, meat products, eggs; raise: cattle, hogs, sheep, goats, poultry, horses, furbearing animals and rabbits; and provide: crop planting and harvesting services. The salt water fishing and seafood products industries do not include the same varied and diverse range of productive activities as does the agricultural sector.

Comment 14: Respondents argue that the unemployment insurance system is a universal system which does not benefit any specific industry uniquely or disproportionately. They point out that the beneft rate is the same for fishermen and other workers, and that premiums are paid at the same rate for fishermen as for other workers. Respondents contend that fishermen are generally governed by the Unemployment Insurance Act (U.I.), with minor modifications to account for the circumstances of nominal self-employment and the seasonality of the fishery. They also argue that, due to unpredictable circumstances of fish unavailability and fishery closures, fishermen are subject to the risk of involuntary unemployment just as other workers. Finally, respondents argue that U.I. benefits are not a grant on the production of groundfish because they pay fishermen not to fish, and actually increase the costs of the fishing industries.

DOC Position: We determined that the terms of this program for self-employed fishermen were not preferential when compared to Canada's general unemployment program. See our discussion in Sectin III.A.4.

Comment 15: Respondents maintain that it is well recognized that if the government either provides infrastructure or funds infrasturcture projects; there is no subsidy because any benefits are available to and used by all industries on a non-preferrential basis. Thus, respondents argue that under the SCRPP, infrastructure projects such as highway construction, airport construction and runway repair were funded and that these projects did not selectively benefit any specific group of industries or enterprises. Respondents assert that the Department should analyze the SCRPP program in its entirety and not each separate project funded from SCRPP moneys.

DOC Position: As stated above, in examining the SCRPP, we looked at the use of funds and not their source. We find the grant to fishermen administered by the DFO to be countervailable because it is limited to a specific industry. The fact that the DFO receives it funds under the Budget of Canada or the National Treasury, does not mean that we look at all programs authorized by the Canadian Budget and funded from the National Treasury in determining whether DFO grants to fishermen are limited to a specific industry or group of industries. Similarly, the fact that some departments used additional SCRPP funds to accelerate the building of airports or highways, does not mean that a grant program for fishermen is not countervailable.

Comment 16: Respondents also argue that under the Small Craft Harbours program, Canada maintains its transportation infrastructure and that no specific industry or enterprise is benefitted.

DOC Position: We agree that infrastructure facilities do not provide countervailable benefits if they are available to and used by all potential users on a non-preferential basis. However, in examining the Small Craft Harbours programs, we found that fishermen paid preferential users fees and therefore, that they received a countervailable benefit.

Comment 17: Respondents argue that the government of the Nova Scotia's Industrial Development Division administers a wide variety of programs designed to promote safety and improve working conditions in the fishing industry, to minimize risk associated with the introduction of technological innovations, and to raise the quality standards applicable to the fishing industry as a whole. As such, respondents contend that these programs do not reduce the overhead associated with production operations or contribute significantly to capital improvements, and that they are therefore, not countervailable.

DOC Position: We verified that under this program the government disbursed funds which were used by fishermen to invest in a wide range of capital equipment including fishing vessels, fishing gear, and storage and handling containers. Recipients also received grants covering costs of projects such as the construction of private wharves, bait storage facilities and gear sheds. These grants provide countervailable benefits under the countervailing duty law. Respondents' contention that government funding of these projects does not reduce overhead or contribute to capital improvement is untenable.

Comment 18: Respondents contend that programs providing grants for the purchase, construction and modernization of fishing vessels are not countervailable because, both in intent and effect, the grants provided benefitted boat builders, not fishermen. They state that as the legislative history indicates, the vessel assistance programs were designed to assist the Canadian shipbuilding industry, and not the fishermen. they further state that vessel assistance grants simply compensate for the "artificially inflated prices" realized by Canadian shipbuilders. Finally, with respect to vessels constructed by fishermen themselves, respondents argue that because the fishermen must use locally-produced materials, the entire amount of the grant received by the fishermen is passed on to the suppliers of the locally-sourced construction materials. Respondents are joined in these arguments by an economic consultant, working on behalf of the American Seafood Distributors Association (ASDA).

DOC Position: We disagree. Respondents have not provided any conclusive evidence to support either their argument on intent, or on effect. With respect to intent, respondents have provided two isolated excerpts from legislative disucssions on vessel grants, one from 1974 and one from 1978. We cannot conclude from either excerpt that the intent of the government was to provide benefits to the shipbuilding industry. One only needs to examine the enabling federal and provincial legislation to realize that the intent of the various governments was to benefit fishermen. Benefits are only available for vessels engaged in commercial fishing activities. If the governments intended to benefit the shipbuilding industry, why were only fishing vessels eligible for coverage? Respondents acknowledge in their pre-hearing brief that the government represented this program as benefitting fishermen. In fact, in a February 7, 1986, press release, the Canadian Minister of Fisheries and Oceans, when announcing the federal FVIP termination, stated that "when the program was introduced, there were very few sources of capital for fishermen who wished to build new boats. That has now changed and banks, trust companies, credit unions and provincial loan boards all provide funds for this purpose." The logical conclusion from this statement is that the government intended to provide funding to enable professional fishermen to purchase or construct fishing vessels.

With respect to the argument on effect, other than a limited number of price quotations on foreign built vessels, respondents and the ASDA rely on an economic study conducted in 1979 for the DFO. This study, which concluded that fishermen do not benefit from vessel subsidies, had as one of its stated purposes, "in the face of the threatening U.S. countervail suit, to recommend an alternative to help fishermen." The author of that study stated that "due to the lack of available data and knowledge about the nature of the shipbuilding industry and, indeed, about the fishermen themselves, much effort has been expended on analysis which is purely descriptive in nature." With respect to the price elasticity of demand, the author states that "to estimate the price elasticity of demand, one needs to know the various quantities which buyers will purchase at different prices, *ceteris paribus.* The only prices that could be obtained were the estimated costs of vessels, quoted by the builders of subsidized vessels. The changes brought about by the subsidy program could be determined if one knew the prices of vessels before and after the subsidy came into effect. We only have the latter." And, with respect to the price elasticity of supply, she further states, "one needs to know something about the quantities and prices of the inputs which are used in the production of vessels. How these inputs are combined to produce a given output is also helpful information. There is no such data available on the Nova Scotia boatbuilding yard." She concludes by stating, "the data that are available are very sparse, difficult to locate, and totally inadequate for the purpose of analyzing government subsidy programs." Based on these statements by the author herself, we do not believe that respondents have presented any credible evidence to support their contention that grants under these vessel programs benefit shipbuilders, not fishermen. Nor has any evidence been provided to demonstrate that subsidies are passed through to suppliers of locally-sourced construction materials.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government officials, inspection of documents and ledgers, and tracing the information in the responses to source documents, accounting ledgers, financial statements and annual reports.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to suspend liquidation of all entries of certain fresh Atlantic groundfish from Canada which are entered, or withdrawn from warehouse, for consumption on or after January 9, 1986, the date of publication of our preliminary determination in the Federal Register. The liquidation of all entries, entered or withdrawn from warehouse, for consumption will continue to be suspended, and as of the date of publication of this notice in the Federal Register, the Customs Service should require a cash deposit or bond for each such entry in the amount of 5.82 percent *ad valorem.* This suspension will remain in effect until further notice.

ITC Notification

In accordance with section 705 of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry 45 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on groundfish from Canada entered, or withdrawn from warehouse, for consumption on or after the date of the suspension of liquidation as indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 14, 1986.

[FR Doc. 86-6255 Filed 3-21-86; 8:45 am]

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[A-351-602]

Certain Carbon Steel Butt-Weld Pipe Fittings From Brazil; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping investigation to determine whether certain carbon steel butt-weld pipe fittings from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 10, 1986, and we will make ours on or before August 4, 1986.

EFFECTIVE DATE: March 24, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On February 24, 1986, we received a petition in proper form filed by the U.S. Butt-Weld Fittings Committee, in compliance with filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36). The petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on certain carbon steel butt-weld pipe fittings from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain carbon steel butt-weld fittings are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are carbon steel butt-weld type pipe fittings, other than couplings, under 14 inches in inside diameter, whether finished or unfinished, as currently provided for under item 610.8800 of the *Tariff Schedules of the United States, Annotated, (TSUSA).*

United States Price and Foreign Market Value

Petitioner was unable to obtain price information from price quotes or sale offers. Consequently, petitioner based United States price on the customs value for butt-weld pipe fittings under 14 inches in diameter imported from Brazil during the period January through October 1985. Petitioner made no adjustment for foreign inland freight.

Petitioner was unable to obtain home market or third country data. Consequently, petitioner calculated a constructed foreign market value. As petitioner was unable to obtain Brazilian cost data for the appropriate sizes of seamless pipe, petitioner averaged the unit prices for the average improted Brazilian seamless pipe. Production factors were averaged as well, and were based on three high-volume common finished fittings representative of the market. Two average constructed values were calculated due to the uncertainty of the applicable tariff category.

Petitioner used U.S. production and packing costs for the three representative products.

Adjustments were made for known differences in corresponding Brazilian costs, as well as for the statutory minimums for general expenses and profits.

Based on the conparison of United States price and the constructed foreign market value, petitioner alleges average dumping margins ranging from 50.0 to 54.5 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative proctective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 10, 1986, whether there is a reasonable indication that imports of certain finished carbon steel butt-weld pipe fittings from Brazil are causing material injury, ot threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise,